

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by 1st submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication.

Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

NOTICE OF PROPOSED RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 12. OFFICE OF THE SECRETARY OF STATE

PREAMBLE

- | | | |
|----|--------------------------|--------------------------|
| 1. | <u>Sections Affected</u> | <u>Rulemaking Action</u> |
| | Article 1 | Repeal |
| | R2-12-101 | Repeal |
| | R2-12-102 | Repeal |
| | R2-12-103 | Repeal |
| | R2-12-104 | Repeal |
| | R2-12-105 | Repeal |
| | R2-12-106 | Repeal |
| | R2-12-107 | Repeal |
| | R2-12-108 | Repeal |
| | R2-12-109 | Repeal |
| | R2-12-110 | Repeal |
| | Article 2 | Repeal |
| | R2-12-201 | Repeal |
| | R2-12-202 | Repeal |
| | R2-12-203 | Repeal |
| | R2-12-204 | Repeal |
| | R2-12-205 | Repeal |
| | Article 3 | Repeal |
| | R2-12-301 | Repeal |
| | R2-12-302 | Repeal |
| | R2-12-303 | Repeal |
| | Article 4 | Repeal |
| | R2-12-401 | Repeal |
2. The specific authority for the rulemaking, including both the authorizing statute and the statutes the rules are implementing:
- Authorizing statute: A.R.S. § 41-1003
- Implementing statutes: A.R.S. §§ 41-1239(A)(1), 16-112(B), 44-1281, and 44-6559.
3. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:
- | | |
|------------|--|
| Name | Jessica Funkhouser (Articles 1 and 2)
Elaine LeTarte (Articles 1 and 2)
Lynda Reithmann (Articles 3 and 4) |
| Address: | Office of the Secretary of State
1700 West Washington, 7th Floor
Phoenix, Arizona 85007 |
| Telephone: | (602) 542-4285 |
| Fax: | (602) 542-6172 |

Arizona Administrative Register
Notices of Proposed Rulemaking

4. An explanation of the rule, including the agency's reasons for initiating the rule:
Article 1 is repealed in its entirety, as statutory changes have made the rules and forms obsolete. Article 2 is repealed in its entirety, as the National Voters Registration Act has made the rules and forms obsolete. Articles 3 and 4 are repealed, as the rules are repetitive of statute and the forms are obsolete.
5. A showing of good cause why the rule is necessary to promote statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:
Not applicable.
6. The preliminary summary of the economic, small business, and consumer impact:
There will be no economic impact on small business or consumers.
7. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:
Name Jessica Funkhouser (Articles 1 and 2)
 Elaine LeTarte (Articles 1 and 2)
 Lynda Reithmann (Articles 3 and 4)

Address: Office of the Secretary of State
 1700 West Washington, 7th Floor
 Phoenix, Arizona 85007

Telephone: (602) 542-4285

Fax: (602) 542-6172
8. The time, place, and nature of the proceedings for the adoption, amendment or repeal of the rule or, if no proceeding, where, when, and how persons may request an oral proceeding on the proposed rule:
The Secretary of State has not scheduled oral proceedings on this rule repeal action. Such proceedings will be scheduled if 5 for more people request them by sending a written request to Elaine LeTarte before 5 p.m., Wednesday, February 18, 1998, the date scheduled for the close of record.
9. Any other matters prescribed by the statute that are applicable to the specific agency or to any specific rule or class of rules:
Not applicable.
10. Incorporations by reference and their location in the rules:
Not applicable.
11. The full text of the rules as follows:

TITLE 2. ADMINISTRATION

CHAPTER 12. OFFICE OF THE SECRETARY OF STATE

**ARTICLE 1. REGISTRATION AND REGULATION OF
LOBBYISTS REPEALED**

Section	
R2-12-101.	Definitions <u>Repealed</u>
R2-12-102.	Registration <u>Repealed</u>
R2-12-103.	Quarterly report <u>Repealed</u>
R2-12-104.	Annual expenditure report <u>Repealed</u>
R2-12-105.	Monthly expenditure report <u>Repealed</u>
R2-12-106.	Identification list for firms <u>Repealed</u>
R2-12-107.	Lobbyists register <u>Repealed</u>
R2-12-108.	Revocation of registration <u>Repealed</u>
R2-12-109.	Filing <u>Repealed</u>
R2-12-110.	Availability of forms <u>Repealed</u>

**ARTICLE 2. VOTER REGISTRATION AT TIME OF
APPLYING FOR DRIVER'S LICENSE REPEALED**

Section	
R2-12-201.	Voter registration affidavit form <u>Repealed</u>
R2-12-202.	Appointment of driver's license examiners <u>Repealed</u>
R2-12-203.	Completed voter registration affidavits <u>Repealed</u>
R2-12-204.	List of valid Arizona driver's licenses <u>Repealed</u>
R2-12-205.	Voting information and qualifications <u>Repealed</u>

**ARTICLE 3. REGISTRATION OF TELEMARKETING-
SELLERS REPEALED**

Section	
R2-12-301.	Registration <u>Repealed</u>
R2-12-302.	Fees <u>Repealed</u>
R2-12-303.	Filing <u>Repealed</u>

**ARTICLE 4. CHARITABLE ORGANIZATION-
REGISTRATION REPEALED**

Section	
R2-12-401.	Registration <u>Repealed</u>

**ARTICLE 1. REGISTRATION AND REGULATION OF
LOBBYISTS REPEALED**

- R2-12-101. Definitions Repealed
- A. For the purpose of A.R.S. § 41-1232, expenditures which require reporting are "Expenditures for entertainment or other expenses incurred in the personal contact with any legislator, any state officer or member of any state agency, board, commission or council".
- B. For the purpose of A.R.S. § 41-1232(C)(1), the term "state officer or member of any state agency, board, commission or council" means the incumbent of any office or head of any agency, his deputy or assistant exercising the powers and

Arizona Administrative Register
Notices of Proposed Rulemaking

duties of the officer or agency head, and a member of any board, commission or council. This definition does not include any clerks or other such employees. (A.R.S. § 38-101)

R2-12-102. Registration Repealed

A person may register for the 1st time as a principal at any time during the year and must register again no later than 5 p.m. January 31 of each succeeding year thereafter, during which time he expects to employ lobbyists. The registration form (Form L-1) shall be filed in the Office of the Secretary of State under oath and shall contain the information required in A.R.S. § 41-1232.

R2-12-103. Quarterly report Repealed

The Supplemental Quarterly Lobbyist Activity Report (Form L-2) required by A.R.S. § 41-1232 need not be filed for any calendar quarter during which no additional activities were entered into or lobbyists engaged or discharged by the principal. Supplemental Quarterly Lobbyist Activity Reports (Form L-2) shall be filed no later than 5 o'clock p.m. on the fortieth day following March 31, June 30, September 30, and December 31 each year.

R2-12-104. Annual expenditure report Repealed

The Annual Lobbyist Expenditure Report required under the provisions of A.R.S. § 41-1232(C), shall be filed by the principal in the Office of the Secretary of State no later than 5 o'clock p.m. January 31 of each year. The report shall be filed on Form L-3 and shall be filed whether or not any expenditure has occurred during the reporting period.

R2-12-105. Monthly expenditure report Repealed

The Monthly Lobbyist Expenditure Report required under the terms of A.R.S. § 41-1232(D), shall be filed in the Office of the Secretary of State no later than 5 o'clock p.m. on the 10th day of the month following the month covered by the report. The report shall be filed on Form L-4 but need not be filed for any month in which no such expenditure occurred.

R2-12-106. Identification lists for firms Repealed

Any corporation, partnership, law firm or other type of business or professional organization which is or expects to be engaged as a lobbyist under the provisions of A.R.S. § 41-1232 may file with

the Secretary of State an identification list and revisions thereof. Such list shall set forth the name, business address of each officer, partner, agent or employee authorized to act as a lobbyist on behalf of such firm or organization. Any such organization which has filed an identification list may be referred to in the registration of a principal by a firm name only and the name of all of that firm's designated officers, partners, agents or employees shall be deemed included by cross reference in the registration of the principal.

R2-12-107. Lobbyist register Repealed

The Secretary of State shall maintain a register of the name and business address of each principal registered under the terms of Title 41, Chapter 7, Article 8.1, Arizona Revised Statutes, together with a register of each lobbyist employed by each principal, the business address of the lobbyist, and the name of the principal by whom the lobbyist is employed. The register shall be open to public inspection at all times during regular business hours.

R2-12-108. Revocation of registration Repealed

A principal desiring to revoke his registration, or a lobbyist desiring to disassociate himself from a principal, may file Form L-6 as applicable in the Office of the Secretary of State. The revocation or disassociation shall be deemed effective upon filing.

R2-12-109. Filing Repealed

- A. If the final day for filing any report required under the provisions of the law or regulations falls on a Saturday or on a Sunday or legal holiday as defined by A.R.S. § 1-301, the report may be filed on the next succeeding business day prior to 5 o'clock p.m.
- B. For purposes of this regulation, filing shall be accomplished either by delivery to the Office of the Secretary of State or by mailing through the United States Post Office under postmark dated on or before the filing deadline.

R2-12-110. Availability of forms Repealed

All forms required to be filed under the provisions of the law or regulations are available without cost from the Office of the Secretary of State.

Arizona Administrative Register
Notices of Proposed Rulemaking

ARIZONA
LOBBYIST REGISTRATION FORM

In compliance with A.R.S. Section 41-1232(A), I submit the following

1. NAME OF PRINCIPAL _____

2. BUSINESS ADDRESS OF PRINCIPAL _____

(Street Address)

(City) (State) (Zip) (Business Phone)

3. STATUS OF PRINCIPAL: INDIVIDUAL; PARTNERSHIP; COMMITTEE;
(CHECK ONE) ASSOCIATION; CORPORATION; OTHER _____

4. NAME, ADDRESS AND PHONE NUMBER OF EACH PERSON ENGAGED BY THE PRINCIPAL AS A LOBBYIST

a. _____

b. _____

(Name)

(Name)

(Address)

(Address)

(City)

(State)

(Zip)

(City)

(State)

(Zip)

(attach supplemental list if needed)

5. NAME, ADDRESS AND PHONE NUMBER OF EACH EMPLOYEE OF A LOBBYIST IS SUCH EMPLOYEE ACTS AS A LOBBYIST

a. _____

b. _____

(Name)

(Name)

(Address)

(Address)

(City)

(State)

(Zip)

(City)

(State)

(Zip)

(attach supplemental list if needed)

6. MAJOR TYPES OF ISSUES FOR WHICH PRINCIPAL ENGAGES ANY LOBBYIST

7. DURATION OF ENGAGEMENT OF ANY LOBBYIST

FROM _____ TO _____

8. DESCRIPTION OF EXPENSES FOR WHICH EACH LOBBYIST IS TO BE REIMBURSED BY THE PRINCIPAL

(PRINCIPAL)

State of _____

County of _____ SS.

(Please Print)

(Signature of Principal or Authorized Agent)

_____, being 1st duly sworn says that I am the Principal (or, _____ of the Principal) in the foregoing Lobbyist Registration Form; that to the best of my knowledge and belief the matters therein are true and correct.

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 19 _____.

My Commission Expires _____

Notary Public

Arizona Administrative Register
Notices of Proposed Rulemaking

**ARIZONA
SUPPLEMENTAL QUARTERLY
LOBBYIST ACTIVITY REPORT**

Supplemental report to be filed for each calendar quarter during which any additional activities have taken place or lobbyists have been engaged by the Principal. This report shall contain the information required by A.R.S. Section 41-1232(B) and shall be filed on or before the fortieth day following the last day of such calendar quarter.

1. NAME OF PRINCIPAL _____

2. BUSINESS ADDRESS OF PRINCIPAL _____

(Street Address)

(City)

(State)

(Zip)

(Business Phone)

3. NAME AND ADDRESS OF EACH LOBBYIST (and each Employee of a Lobbyist if such Employee acts as a Lobbyist)
ENGAGED
SINCE FILING OF LAST REPORT

a. _____

b. _____

(Name)

(Name)

(Address)

(Address)

(City)

(State)

(Zip)

(City)

(State)

(Zip)

(attach supplemental list if needed)

4. CHANGE IN MAJOR TYPES OF ISSUES FOR WHICH EACH LOBBYIST IS ENGAGED

5. CHANGES IN DURATION OF ENGAGEMENT OF EACH LOBBYIST

6. CHANGES IN EXPENSES FOR WHICH EACH LOBBYIST IS TO BE REIMBURSED

State of _____

County of _____ SS: _____

(Please Print) _____

(Signature of Principal or Authorized Agent)

_____, being 1st duly sworn says that I am the Principal (or,
_____, of the Principal) in the foregoing Supplemental Quarterly Lobbyist Activity Report; that to the best of my
knowledge and belief the matters therein are true and correct.

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 19____

My Commission Expires _____

Notary Public

Arizona Administrative Register
Notices of Proposed Rulemaking

ARIZONA
ANNUAL LOBBYIST
EXPENDITURE REPORT

1. NAME OF PRINCIPAL _____

2. BUSINESS ADDRESS OF PRINCIPAL _____

(Street Address)

(City)

(State)

(Zip)

(Business Phone)

3. THE PRINCIPAL SHALL list the total of all expenditures incurred by or on behalf of the Principal in the course of attempting to influence the passage of any legislation or to influence the official action of any state officer, agency, board, commission or council. Expenditures such as those for personal sustenance, office expenses, filing fees, legal fees, employees, compensation to lobbyists, lodging and travel need not be reported. Expenditures for entertainment or other expenses incurred in the personal contact with any legislator, any state officer or member of any state agency, board, commission or council, shall be reported, provided such expenditures were made in the course of attempting to influence the passage or defeat of any legislation or in the course of attempting to influence the official action of any state office, state agency, board, commission or council. (See A.R.S. Section 41-1232(C)(1))

Total expenditures incurred by Principal during the calendar year ending December 31, 19____ \$_____.

4. EACH SINGLE EXPENDITURE UNDER ITEM 3 OF THIS REPORT IN EXCESS OF \$25.00 (SEE A.R.S. § 41-1232(C)(2)).

NAME OF

AMOUNT
DATE

PUBLIC OFFICIAL, OFFICE, OR EMPLOYEE

a. \$ _____

b. \$ _____

TOTAL AMOUNT OF SUCH EXPENDITURES: \$_____.

5. EXPENDITURES FOR SPECIAL EVENTS FOR LEGISLATORS INCURRED DURING THE CALENDAR YEAR ENDING DECEMBER 31, 19____ (SEE A.R.S. § 41-1232(C)(3)).

AMOUNT

LOCATION OF

NAME OF

EVENT

LEGISLATIVE BODY INVITED

DATE

a. \$ _____

b. \$ _____

TOTAL AMOUNT OF SUCH EXPENDITURES: \$_____.

(attach supplemental lists to 4 and 5 if needed)

State of _____

County of _____ SS: _____

(PRINCIPAL)

_____, being 1st duly sworn says that I am the Principal (or, _____ of the Principal) in the foregoing Annual Lobbyist Expenditure Report; that to the best of my knowledge and belief the matters therein are true and correct.

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 19____.

My Commission expires _____

Notary Public

Arizona Administrative Register
Notices of Proposed Rulemaking

ARIZONA
MONTHLY LOBBYING
EXPENDITURE REPORT

This report shall be filed monthly, on or before the 10th day of the following month, to list any single expenditure in excess of \$25.00 occurring during the month and which must be reported pursuant to A.R.S. § 41-1232. THIS REPORT NEED NOT BE FILED FOR ANY MONTH DURING WHICH NO SUCH EXPENDITURE OCCURRED.

1. NAME OF PRINCIPAL _____

2. BUSINESS ADDRESS OF PRINCIPAL _____

(Street Address)

(City) (State) (Zip) (Business Phone)

3. MONTH COVERED BY REPORT _____, 19____

4. LIST EACH SINGLE EXPENDITURE IN EXCESS OF \$25.00 MADE DURING THE MONTH COVERED BY THIS REPORT.
(SEE A.R.S. § 41-1232(C)(2))

	AMOUNT	NAME OF PUBLIC OFFICIAL	DATE
a.	\$ _____	_____	_____
b.	\$ _____	_____	_____

TOTAL AMOUNT OF SUCH EXPENDITURES: \$ _____

(attach supplemental list if needed)

5. LIST EXPENDITURES IN EXCESS OF \$25.00 FOR EACH SPECIAL EVENT FOR LEGISLATORS INCURRED DURING THE

MONTH COVERED BY THIS REPORT (SEE A.R.S. § 41-1232):

	AMOUNT	LOCATION OF EVENT	NAME OF LEGISLATIVE BODY INVITED	DATE
a.	\$ _____	_____	_____	_____
b.	\$ _____	_____	_____	_____

TOTAL AMOUNT OF SUCH EXPENDITURES: \$ _____

(attach supplemental list if needed)

(PRINCIPAL)

State of _____

County of _____ SS: _____

_____ being 1st duly sworn says that I am the Principal (or, _____ of the Principal) in the foregoing Monthly Lobbyist Expenditure Report; that to the best of my knowledge and belief the matters therein are true and correct.

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 19____

My Commission expires _____

Notary Public

Arizona Administrative Register
Notices of Proposed Rulemaking

ARIZONA
REVOCATION OF LOBBYING
REGISTRATION

PRINCIPAL ONLY

1. NAME OF PRINCIPAL _____

2. BUSINESS ADDRESS OF PRINCIPAL _____

(Street Address)

(City)

(State)

(Zip)

(Business Phone)

3. THE UNDERSIGNED IS A PRINCIPAL REGISTERED WITH THE OFFICE OF THE SECRETARY OF STATE PURSUANT TO TITLE 41, CHAPTER 7, ARTICLE 8.1, ARIZONA REVISED STATUTES. THE PRINCIPAL HEREBY TERMINATES THE ENGAGEMENT AND AUTHORITY OF ANY AND ALL LOBBYISTS NAMED IN THAT REGISTRATION. TERMINATION SHALL BE EFFECTIVE ON _____, 19____.

—————→ IMPORTANT —Principal must notify the Lobbyist of this action.

(PRINCIPAL)

State of _____

County of _____ SS: _____

_____, being 1st duly sworn says that I am the Principal (or, _____ of the Principal) in the foregoing Principal's Revocation of Lobbying Registration Form; that to the best of my knowledge and belief the matters therein are true and correct.

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 19____.

My Commission expires _____

Notary Public

Form L5-5-1/85—Secretary of State

Arizona Administrative Register
Notices of Proposed Rulemaking

ARIZONA
REVOCATION OF LOBBYING
ENGAGEMENT

LOBBYIST ONLY

1. NAME OF LOBBYIST _____

2. ADDRESS OF LOBBYIST _____

(Street Address)

(City)

(State)

(Zip)

(Business Phone)

3. NAME OF PRINCIPAL ENGAGING LOBBYIST _____

4. BUSINESS ADDRESS OF PRINCIPAL _____

(Street Address)

(City)

(State)

(Zip)

(Business Phone)

5. THE UNDERSIGNED IS A LOBBYIST ENGAGED BY THE ABOVE NAMED PRINCIPAL REGISTERED WITH THE OFFICE OF THE SECRETARY OF STATE PURSUANT TO TITLE 41, CHAPTER 7, ARTICLE 8.1, ARIZONA REVISED STATUTES. THE LOBBYIST UNDERSIGNED HEREBY TERMINATES THE ENGAGEMENT AND DECLARES TERMINATION TO BE EFFECTIVE ON _____, 19____.

➔ IMPORTANT — Lobbyist must notify the Principal of this action.

(LOBBYIST)

State of _____)

County of _____) SS. —

_____, being 1st duly sworn says that I am the Lobbyist in the foregoing Revocation of Lobbying Engagement Form; that to the best of my knowledge and belief the matters therein are true and correct.

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 19____.

My Commission expires _____

Notary Public

Form L-6 1/85—Secretary of State

Arizona Administrative Register
Notices of Proposed Rulemaking

ARTICLE 2. VOTER REGISTRATION AT TIME OF APPLYING FOR DRIVER'S LICENSE

R2-12-201. Voter registration affidavit form

The voter registration affidavit form to be used by driver's license examiners is prescribed as follows:

1. Original (front)

TYPE or PRINT plainly with ink.

LAST, FIRST and MIDDLE NAME must
be shown in full using CAPITALS. Place
all information
within the space allowed.

STATE OF ARIZONA
AFFIDAVIT OF REGISTRATION

COUNTY

For Office Use Only

1.	Full Name (CIRCLE ONE) Mr. Mrs. Ms. Miss.	Last Name	First	Middle	Jr/Sr/III			
2.	Residence Address	House Number	Direction (E, W, N, S)	Street Name	Type (St, Dr, Av, etc.)	Apt, Sp. No.	Res. City	Zip Code
3.	Mailing Address If Different	(include post office address, city or town, zip code or other designation used for receiving mail, or describe exact location of residence on diagram provided on reverse side.)						
4.	Party Preference					Precinct Name or Number _____ Office Code _____ 10. Prior Registration Information Former Address _____ _____ Former Party Preference _____ Former Name _____		
5.	Telephone Number	(unless unlisted) _____						
6.	Place of Birth	State	Foreign Country	Birth Date	Mo.	Day	Year	
7.	Occupation				Indian Census No.			
8.	Currently registered in	Country	State	Prec.				
9.	Father's Name	Last	First	Middle				
	State of Arizona)	I, the undersigned registrant swear (or affirm) that I am a citizen of the United States and a resident of the State of Arizona and the County of _____; that before the next general election, I will be eighteen years of age or more; that I have not been convicted of treason or a felony (or if so, my civil rights have been restored); and that all statements on both sides of this card are true to the best of my knowledge and belief.						
	County of)							

Subscribed and Sworn to before me on this date _____

Signature of Registration Officer — Title

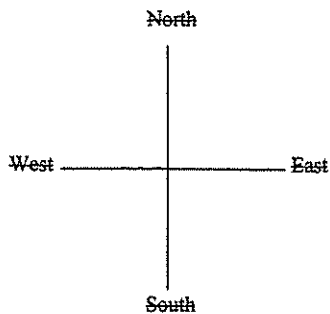
11 ☒

Signature of Applicant for Registration

Arizona Administrative Register
Notices of Proposed Rulemaking

2. Original (back)

Note: if the address given on this affidavit is on a Rural Route or Post Office Box Number give exact location of the residence on the diagram at left - INDICATE WITH AN "X".



 Name of Street running North and South

 Distance from Residence to Street running North and South

 Name of Street running East and West

 Distance from Residence to Street running East and West

 NOTE: Be sure to indicate any Landmark on Diagram
 (Canals, Rivers, Railroad Tracks Etc.)

 Distance from Residence to Landmark running North and South

 Distance from Residence to Landmark running East and West

TRANSFERRED TO NEW ADDRESS

Date	House No.	Name of Street, Avenue, Etc.	City or Town	NEW PRECINCT	Office Code

VOTING RECORD

Year	1984	1986	1988	1990	1992
GENERAL ELECTION					
VALID DRIVER'S LICENSE					

DATE REINSTATED

1985	1987	1989	1991	1993

Arizona Administrative Register
Notices of Proposed Rulemaking

3.—Copy (Receipt front)

STATE OF ARIZONA

VOTER RECEIPT

KEEP THIS COPY — YOUR PROOF OF REGISTRATION CARD
WILL BE MAILED WITHIN 30 DAYS — IF NOT RECEIVED
CALL YOUR COUNTY RECORDER

COUNTY

THIS IS NOT A CERTIFICATE OF REGISTRATION
BUT CAN BE USED TO VOTE A QUESTIONED
BALLOT IN YOUR PRECINCT OF REGISTRATION, IF
YOUR NAME IS NOT ON THE PRECINCT REGISTER.

1.	Full Name (CIRCLE ONE) Mr. Mrs. Ms. Miss _____ Last Name First Middle Jr/Sr/III	
2.	Residence Address _____ House Number Direction (E, W, N, S) Street Name Type (St, Dr, Av, etc.) Apt., Sp. No. Res. City Zip Code	
3.	Mailing Address If Different _____ (include post office address, city or town, zip code or other designation used for receiving mail, or describe exact location of residence on diagram provided on reverse side.)	
4.	Party Preference _____	<div>Precinct Name or Number _____ Office Code _____ Prior Registration Information Former Address _____ Former Party Preference _____ Former Name _____</div>
5.	Telephone Number _____ (unless unlisted)	
6.	Place of Birth _____ Birth Date _____ State Foreign Country Mo. Day Year	
7.	Occupation _____ Indian Census No. _____ (Optional)	
8.	Currently registered in _____ Country State Prec.	
9.	Father's Name _____ Last First Middle	

State of Arizona)

) SS.

County of)

I, the undersigned registrant swear (or affirm) that I am a citizen of the United States and a resident of the State of Arizona and the County of _____; that before the next general election, I will be eighteen years of age or more; that I have not been convicted of treason or a felony (or if so, my civil rights have been restored); and that all statements on both sides of this card are true to the best of my knowledge and belief.

Subscribed and Sworn to before me on this date _____

Signature of Registration Officer — Title

☒ 11

Signature of Applicant for Registration

Arizona Administrative Register
Notices of Proposed Rulemaking

4. ~~Copy (Receipt back)~~

DEAR VOTER:

CONGRATULATIONS. YOU HAVE JUST TAKEN A MAJOR STEP TOWARD GOOD CITIZENSHIP. HERE IS SOME INFORMATION WHICH WILL HELP YOU TO EXERCISE YOUR RIGHT TO VOTE.

YOUR REGISTRATION WILL REMAIN ACTIVE IF:

- (1) ~~YOU VOTE IN EACH GENERAL ELECTION~~
- (2) ~~YOUR NAME, ADDRESS AND PARTY REMAIN THE SAME~~
- (3) ~~YOU MAINTAIN A VALID DRIVER'S LICENSE~~

THE LOCATIONS OF VOTING PLACES ARE PUBLISHED FOR YOUR CONVENIENCE BEFORE EACH ELECTION.

YOU MAY REQUEST AN ABSENTEE BALLOT FOR ANY OF THE FOLLOWING REASONS:

- (1) ~~YOU MAY BE ABSENT FROM YOUR PRECINCT ON ELECTION DAY.~~
- (2) ~~YOU ARE PHYSICALLY UNABLE TO GO TO THE POLLS.~~
- (3) ~~YOU ARE 65 YEARS OF AGE OR OLDER.~~
- (4) ~~YOUR PLACE OF RESIDENCE IS MORE THAN 15 ROAD MILES FROM THE POLLING PLACE.~~
- (5) ~~YOU CANNOT ATTEND THE POLLS ON ELECTION DAY BECAUSE OF THE TENETS OF YOUR RELIGION.~~
- (6) ~~YOU ARE BLIND.~~

Apache County Recorder 337-4364	Cochise County Recorder 432-5703	Cocconino County Recorder 779-6589	Gila County Recorder 425-3231
Graham County Recorder 428-3560	Greenlee County Recorder 865-2632	La Paz County Recorder 669-6131	Maricopa County Recorder 262-1511
Mohave County Recorder 753-9141	Navajo County Recorder 524-6161	Pima County Recorder 792-8101	Pinal County Recorder 868-5801
Santa Cruz Recorder 287-4768	Yavapai County Recorder 445-7450	Yuma County Recorder 782-4534	

Arizona Administrative Register
Notices of Proposed Rulemaking

R2-12-202. Appointment of driver's license examiners

Repealed

Driver's license examiners are permitted to be appointed deputy registrars by the county recorder in the county where the examiner resides.

R2-12-203. Completed voter registration affidavits

Repealed

Driver's license examiners shall forward completed voter registration affidavits or change of address information to the county recorder in the county where the examiner registers the voter.

R2-12-204. List of valid Arizona driver's licenses Repealed

The Department of Transportation shall provide to the county recorder by December 1 of the year of the general election, in a form they agree upon, a list of persons 18 years of age or older holding valid Arizona driver's license in that county on the day of the general election.

R2-12-205. Voting information and qualifications Repealed

The Secretary of State shall provide information to driver's license applicants which explains:

1. The qualifications for registering to vote;
2. The licensing as an operator of a motor vehicle is a function separate and apart from voter registration;
3. The voting process in Arizona.

**ARTICLE 3. REGISTRATION OF TELEMARKETING-
SELLERS REPEALED**

R2-12-301. Registration Repealed

- A.** Prior to soliciting prospective purchasers by telephone from locations in this state, Sellers, as defined in A.R.S. § 44-1271, shall register with the Secretary of State by filing on the following form:

Arizona Administrative Register
Notices of Proposed Rulemaking

Published by the
Office of the
Secretary of State



TELEPHONE SOLICITATION REGISTRATION FORM

A.R.S. Title 44, Chapter 9, Article 6
(Chapter 221, Session Laws 1989)

NOTE: A COPY OF THE BOND FILED WITH THE STATE TREASURER
PURSUANT TO A.R.S. § 44-1274 (CHAPTER 221, SESSION
LAWS 1989) MUST BE ATTACHED TO THIS FORM.

USE ADDITIONAL SHEETS WHEN NECESSARY

FOR OFFICE
USE ONLY

Confirmation of
Agent _____

Fee Paid _____

1. Name of Seller _____
2. Name under which Seller is doing business or intends to do business _____
3. A. Check appropriate box to indicate Seller's Business Form:
☐ **Corporation.** If your business is a Corporation, you must attach a copy of your Articles of Incorporation, Bylaws and Amendments to the Bylaws to this form.
☐ **Partnership.** If your business is a partnership, you must attach a copy of your Partnership Agreement.
☐ **Fictitious Business Name.** If your business operates under a fictitious name, you must state the location where the fictitious business name has been registered:

Name of agency where registered

Street Address

City State Zip

☐ **Sole Proprietorship.**
3. B. State in which above business is organized: _____
4. Physical location of Principal Place of Business:

Complete street address _____

City State Zip _____
5. List telephone numbers for all telephones at Principal Place of Business:

_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Arizona Administrative Register
Notices of Proposed Rulemaking

6. Addresses of all other locations from which seller will be conducting business:

Location 1:

Complete street address		
City	State	Zip

Location 2:

Complete street address		
City	State	Zip

Location 3:

Complete street address		
City	State	Zip

Location 4:

Complete street address		
City	State	Zip

7. Telephone numbers for all telephones at the locations given in item 6:

Location 1:

Location 2:

Location 3:

Location 4:

Arizona Administrative Register
Notices of Proposed Rulemaking

8. This section must be completed for each principal or manager.

	Have you been convicted or pleaded no contest to a felony or misdemeanor involving moral turpitude or a violation of A.R.S. Title 44, Chapter 9, Article 6 (Telephone Solicitations)?		Have you been held liable, either by final judgment or by entry of a stipulated judgment in a civil action alleging fraud, embezzlement, racketeering, fraudulent conversion or misappropriation of property or a violation of A.R.S. Title 44, Chapter 9, Article 6 (Telephone Solicitations) or the use of untrue or misleading representations in an attempt to sell or dispose of real or personal property or the use of unfair, unlawful or deceptive business practices?		Are you subject to a currently effective injunction or restrictive order relative to a business activity as a result of an action brought by a public agency or department, including an action affecting a vocational license?		If you answered yes in Column 1, 2, or 3, you must provide the required information in the space provided on the reverse side of this page (page 4).
Principal or Manager's Full Name	Yes	No	Yes	No	Yes	No	

-3-

Arizona Administrative Register
Notices of Proposed Rulemaking

~~9. This section must be completed by each principal or manager who answered yes in Column 1, 2, or 3 on page 3.~~

Enter the corresponding line number and last name of principal or manager who answered yes in Column 1, 2, or 3 on page 3.	Name of the Court	Date of the Conviction, Judgement, Order or Injunction	Name of the Governmental Agency that filed the Action (if applicable)

10. Provide the following information for the Seller's Agent in Arizona who is authorized to receive Service of Process in this State:

Name _____

Complete street address _____

City _____
State _____
Zip _____

Telephone Number _____

~~-4-~~

Arizona Administrative Register
Notices of Proposed Rulemaking

11. Provide the information below for each Principal, Manager, and Solicitor

() Principal () Manager () Solicitor

Name _____

Residence Address _____

City State Zip

Telephone Number _____ Date of Birth _____

Current Driver's License Number _____

State in which Driver's License was issued _____

() Principal () Manager () Solicitor

Name _____

Residence Address _____

City State Zip

Telephone Number _____ Date of Birth _____

Current Driver's License Number _____

State in which Driver's License was issued _____

() Principal () Manager () Solicitor

Name _____

Residence Address _____

City State Zip

Telephone Number _____ Date of Birth _____

Current Driver's License Number _____

State in which Driver's License was issued _____

Arizona Administrative Register
Notices of Proposed Rulemaking

I, the undersigned, being duly sworn (affirm) and say that this Registration Statement is complete, true and correct.

Printed Name of Seller

Signature of Seller

Subscribed and sworn to (affirmed) before me this _____ day of _____, 19 _____.

My commission Expires:

Notary Public

I, the undersigned, being duly sworn (affirm) and say that this Registration Statement is complete, true and correct.

Printed Name of Seller

Signature of Seller

Subscribed and sworn to (affirmed) before me this _____ day of _____, 19 _____.

My commission Expires:

Notary Public

I, the undersigned, being duly sworn (affirm) and say that this Registration Statement is complete, true and correct.

Printed Name of Seller

Signature of Seller

Subscribed and sworn to (affirmed) before me this _____ day of _____, 19 _____.

My commission Expires:

Notary Public

Arizona Administrative Register
Notices of Proposed Rulemaking

I, the undersigned, being duly sworn (affirm) and say that this Registration Statement is complete, true and correct.

Printed Name of Seller

Signature of Seller

Subscribed and sworn to (affirmed) before me this _____ day of _____, 19____.

My commission Expires:

Notary Public

I, the undersigned, being duly sworn (affirm) and say that this Registration Statement is complete, true and correct.

Printed Name of Seller

Signature of Seller

Subscribed and sworn to (affirmed) before me this _____ day of _____, 19____.

My commission Expires:

Notary Public

I, the undersigned, being duly sworn (affirm) and say that this Registration Statement is complete, true and correct.

Printed Name of Seller

Signature of Seller

Subscribed and sworn to (affirmed) before me this _____ day of _____, 19____.

My commission Expires:

Notary Public

Arizona Administrative Register
Notices of Proposed Rulemaking

- ~~B. The signature of the Seller or, if the seller is other than a natural person, the signature of the Designated Agent of the Seller shall be notarized. All signatures of Principals as defined in A.R.S. § 44-1271 shall be notarized.~~

R2-12-302. Fees Repealed

- ~~A. The annual registration fee for full-year registration shall be \$500.00. The annual registration fee for an initial registration statement filed between August 1 and June 30 of a registration year shall be according to a sliding scale with a minimum fee of \$250.00 as follows:~~

~~\$500—July (full-year registration)
\$475—August
\$450—September
\$425—October
\$400—November
\$375—December
\$350—January
\$325—February
\$300—March~~

~~\$275—April~~

~~\$250—May and June~~

- ~~B. The fee for filing A.R.S. § 44-1272 Supplemental Statements, including Quarterly Statements of changes in solicitors, shall be \$25.00 per filing.~~

R2-12-303. Filing Repealed

~~Filing will be considered complete when the form prescribed in R2-12-301 has been completed in full, the appropriate filing fees have been paid and assurance has been received from the Office of the State Treasurer that a \$25,000 surety bond or its cash equivalent has been posted with the Treasurer.~~

**ARTICLE 4. CHARITABLE ORGANIZATION
REGISTRATION REPEALED**

R2-12-401. Registration Repealed

~~All charitable organization registration statements, including supplemental statements reflecting changes or new information, filed with the Secretary of State pursuant to A.R.S. § 44-6552 shall be on the following form:~~

Arizona Administrative Register
Notices of Proposed Rulemaking

Published by the
Office of the
Secretary of State



CHARITABLE ORGANIZATION REGISTRATION FORM

A.R.S. Title 44, Chapter 19, Article 1
Chapter 277, Session Laws 1989)

Phone: _____
(Optional)

Use Additional Sheets if Necessary

Circle One: INITIAL REGISTRATION SUPPLEMENTAL REGISTRATION

1. Name of Charitable Organization _____
Business Address _____

City State Zip

2. Officers and Directors:

A. _____
Name _____
Business Address _____
City State Zip

B. _____
Name _____
Business Address _____
City State Zip

C. _____
Name _____
Business Address _____
City State Zip

Arizona Administrative Register
Notices of Proposed Rulemaking

3. Person primarily responsible for fund raising:

Name

Business Address

City

State

Zip

4. Independent Contractor engaged for remuneration to make solicitations on behalf of the organization:

Name

Business Address

City

State

Zip

5. Give a general description of the methods, locations, types and amounts of solicitations that the charitable organization, or any of its solicitors, will use to solicit contributions:

A:

Methods/Types
of Solicitation:

Amounts of Solicitations
(number — not dollar figure)

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

B. Locations Used for Solicitation:

6. Duration of Solicitation Period: _____

Arizona Administrative Register
Notices of Proposed Rulemaking

7. A. For initial registration statements filed after June 30:

The total of all charitable contributions received January 1 to June 30 of this year:

\$ _____

- B. For any initial registration statement filed prior to June 30 and for any non-initial registration statement:

Total dollar amount of all charitable contributions received during the preceding calendar year:

\$ _____

Statement of all expenditures relating to solicitation during the preceding calendar year: _____

8. If any person primarily responsible for fund raising, any officer or director has a criminal conviction, state the following:

Name

Date of Conviction _____

Place of Conviction _____

Nature of Criminal Offense _____

Name

Date of Conviction _____

Place of Conviction _____

Nature of Criminal Offense _____

9. Describe any solicitation activity by your organization during the preceding year in any other state:

Arizona Administrative Register
Notices of Proposed Rulemaking

10. Describe purpose(s) of your charity (Optional):

I, the undersigned, being duly sworn depose (affirm) and say that this Charitable Organization Registration Statement is complete, true and correct.

Printed Name of Chairman

Signature of Chairman

Subscribed and sworn to (affirmed) before me this _____ day of _____, 19 _____.

My commission expires:

Notary Public

I, the undersigned, being duly sworn depose (affirm) and say that this Charitable Organization Registration Statement is complete, true and correct.

Printed Name of Financial Officer

Signature of Financial Officer

Subscribed and sworn to (affirmed) before me this _____ day of _____, 19 _____.

My commission expires:

Notary Public

NOTICE OF PROPOSED RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 18. GOVERNMENT INFORMATION TECHNOLOGY AGENCY

PREAMBLE

1. Sections Affected

<u>Sections Affected</u>	<u>Rulemaking Action</u>
R2-18-101	New Section
R2-18-201	New Section
R2-18-301	New Section
R2-18-401	New Section
2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 41-3504(A)(12)

Implementing statute: A.R.S. §§ 41-2513 and 41-3504.
3. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: John McDowell, Deputy Director,
or
Allan J. LaRue, Planning Analyst

Address: Government Information Technology Agency
1102 West Adams Street
Phoenix, Arizona 85007

Telephone: (602) 340-8538

Fax: (602) 340-9044
4. An explanation of the rule, including the agency's reasons for initiating the rule:

These rules relate to a notice of rulemaking docket opening that was published at 3 A.A.R. 1932, July 18, 1997, and are required to clarify the statutes, uniformly define terms, and apply the statutes establishing GITA.

R2-18-101. Definitions. This rule contains definitions for terms that are used in A.R.S. Title 41, Chapter 32 and in 2 A.A.C. 18.

R2-18-201. Information Technology Project and Investment Justification and Monitoring. This rule defines the requirements for IT projects and investments that are subject to GITA review and approval. It also describes project review and monitoring.

R2-18-301. Information Technology Planning. This rule describes budget unit IT plan submittal and review by GITA.

R2-18-401. Appeals. This rule provides for an appeal of a GITA decision to disapprove a budget unit IT plan or project to ITAC.
5. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state.

Not applicable.
6. The preliminary summary of economic, small business, and consumer impact:

The Government Information Technology Agency did not exist before July 1, 1997. The rules are intended to help ensure quality and consistency in the application of rapidly changing information technology concepts and available facilities.

Estimated Costs and Benefits to the Arizona Government Information Technology Agency and affected budget units.

This rulemaking facilitates the implementation of the statutes which authorize GITA. There is no economic impact to GITA.

The budget units benefit from developing IT plans that support the statewide infrastructure direction and the budget unit business and financial planning efforts, and from analyzing and preparing effective project plans with adequate risk assessment. The beneficial results should be more successful IT projects and a more cohesive state network of IT facilities. An incremental cost to a budget unit would result where a budget unit, which previously performed inadequate IT planning and incomplete IT project preparation and management, now is required to prepare IT planning and project justification documents for GITA review and approval. Impacts to budget units, that could be perceived as a cost, include:

 1. The possible delay of an IT project because of the iterative preparation of IT plans and IT project and investment justifications to achieve GITA approval, and

Arizona Administrative Register
Notices of Proposed Rulemaking

2. The possible "temporary suspension of the expenditure of monies" for projects because of risk of failure or observed noncompliance with GITA's statutes.

Estimated Costs and Benefits to Political Subdivisions.

Political subdivisions of the state of Arizona are not directly affected by the implementation and enforcement of this rulemaking, except to the extent that statewide policies, standards, and procedures will assist them in designing IT projects with the best potential for collaborative interface with Arizona State Government.

Businesses Directly Affected by this Rulemaking.

This rulemaking does not directly affect businesses, except to the extent that statewide policies, standards and procedures will assist them in designing IT projects with the best potential for collaborative interface with Arizona State Government.

Estimated costs and Benefits to Private and Public Employment.

Public and private employment are not directly affected by the implementation and enforcement of this rulemaking.

Estimated Costs and Benefits to Consumers and the Public.

Consumers and the public are not directly affected by the implementation and enforcement of this rulemaking. However, GITA has been given the responsibility to approve and monitor state Information Technology investments to ensure that risks are minimized and benefits are maximized. Benefits could include the long term development of systems which will simplify and expand the ability of citizens to access public information or conduct transactions with government using Information Technology.

Estimated Costs and Benefits to State Revenues.

State revenues are not directly affected by the implementation and enforcement of this rulemaking.

7. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Allan LaRue
Address: Government Information Technology Agency
1102 West Adams
Phoenix, Arizona 85007
Telephone: (602) 340-8538, Ext. 222
Fax: (602) 340-9044

8. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rules or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Date: February 19, 1998
Time: 9 a.m.
Location: GITA Conference Room
1102 West Adams
Phoenix, Arizona 85007

9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None.

10. Incorporations by reference and their location in the rule:

None.

11. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 18. GOVERNMENT INFORMATION TECHNOLOGY AGENCY

ARTICLE 1. GENERAL PROVISIONS

R2-18-101. Definitions

ARTICLE 2. IT PROJECTS AND INVESTMENTS

R2-18-201. Information Technology Project and Investment
Justification and Monitoring

ARTICLE 3. INFORMATION TECHNOLOGY PLANNING

R2-18-301. IT Planning

ARTICLE 4. APPEALS OF GITA DECISIONS

R2-18-401. Appeals

Arizona Administrative Register
Notices of Proposed Rulemaking

ARTICLE 1. GENERAL PROVISIONS

R2-18-101. Definitions.

Unless the context requires otherwise, the following definitions shall govern:

1. "Appeal" means a written request filed with the Information Technology Authorization Committee (ITAC) by a budget unit challenging a decision by the Government Information Technology Agency (GITA) to reject the budget unit's proposed IT plan or project.
2. "Approved agency projects," as used in A.R.S. Title 41, Chapter 32, means budget unit IT projects that are approved by GITA.
3. "Budget Unit IT Plan," as used in A.R.S. Title 41, Chapter 32, means a budget unit's plan for using information technology during the planning period to support the budget unit's and state's strategic plans, in accordance with state planning standards in the PSP Program.
4. "CEO" means chief executive officer (for example, agency director or commission chairperson).
5. "Critical information technology project," as used in A.R.S. Title 41, Chapter 32, means an IT project that GITA or ITAC has determined warrants special monitoring and more in-depth justification because it is mission-critical to a budget unit or the state, or it has high technical expertise requirements.
6. "Development costs" means the sum of IT project start-up costs, as defined in the PSP Program.
7. "Disapprove" means the status given to a budget unit IT plan or PIJ, which GITA or ITAC has determined to neither approve nor conditionally approve.
8. "GITA" means Government Information Technology Agency.
9. "Incomplete IT plan or PIJ" means an IT plan or PIJ that is missing required approvals, information or sections, as determined by GITA.
10. "Information technology plan" (IT Plan), as used in A.R.S. Title 41, Chapter 32, means either a budget unit IT plan or statewide IT plan.
11. "IT project," as used in A.R.S. Title 41, Chapter 32, means a series of activities, events, and investments to develop and implement a new or enhanced IT system over a prescribed period of time.
12. "IT" means information technology.
13. "ITAC" means Information Technology Authorization Committee.
14. "Major information technology project," as used in A.R.S. Title 41, Chapter 32, means an IT project that GITA or ITAC has determined warrants special monitoring because of issues such as anticipated level of expenses, and effect on entities outside of the budget unit.
15. "PIJ" means project and investment justification document.
16. "Priority category," as used in A.R.S. Title 41, Chapter 32, means a grouping of GITA-approved IT projects by criteria such as project size, project scope, or risk of success, as determined by GITA.
17. "Project and investment justification template" means a standard document, contained in the PSP, used by a budget unit to describe an IT project.
18. "Project status report" means a standard project status reporting document, as defined in the PSP Program, that is used by a budget unit to report progress on critical or major IT projects.

19. "PSP Program" means the Policy, Standards and Procedures Program, which is developed and maintained by GITA, for various information technology topics, including:

- a. IT Planning guidelines.
- b. Project and investment justification and monitoring criteria.
- c. PIJ review criteria.
- d. Current PIJ document template.
- e. IT standards for state budget units.
- f. Policies and procedures related to IT.

20. "Quality assurance plan," as used in A.R.S. Title 41, Chapter 32, means a writing that identifies the criteria and activities a budget unit uses to ensure that the expectations of functionality, budget, and schedule are achieved as the budget unit's IT plan is implemented.
21. "Reject," as used in A.R.S. Title 41, Chapter 32, means "disapprove."
22. "Standards" as used in A.R.S. Title 41, Chapter 32 means the Policy, Standards and Procedures Program developed and maintained by GITA.
23. "Statewide IT Plan," as used in A.R.S. Title 41, Chapter 32, means an information technology plan for the state, which is published annually by GITA, in accordance with the planning policy and procedures in the PSP Program.
24. "Temporarily suspend the expenditure of monies," as used in A.R.S. Title 41, Chapter 32, means an order from GITA to a budget unit mandating that the budget unit shall immediately cease all expenditures and activities for a specific IT project until GITA has determined that project alternatives have been evaluated.
25. "Total costs," as used in A.R.S. Title 41, Chapter 32, means "development costs" as used in this rule and the PSP Program.
26. "Total project costs," as used in A.R.S. Title 41, Chapter 32, means "development costs" as used in this rule and the PSP Program.

ARTICLE 2. IT PROJECTS AND INVESTMENTS

R2-18-201. Information Technology Project and Investment Justification and Monitoring

- A. If an IT project requires GITA approval, pursuant to A.R.S. Title 41, Chapter 23 and Chapter 32, a budget unit shall not spend or commit funds on the project and shall not enter into any contract or vendor agreement until the budget unit has received written GITA approval for the IT project.
 1. Using instructions from the PSP Program and the current PIJ template, a budget unit shall prepare a PIJ describing the budget unit's selected IT project.
 2. A budget unit shall submit a prepared PIJ, which is consistent with the approved budget unit IT plan, to GITA for review. If the PIJ is incomplete, GITA shall identify deficiencies and return the PIJ to the budget unit for completion and resubmission.
 3. GITA shall process a completed PIJ and approve, conditionally approve, or disapprove the proposed IT project, and shall notify the budget unit CEO and others, as appropriate.
 - a. If GITA conditionally approves the IT project, GITA shall identify the conditions that the budget unit must meet for full approval. The budget unit may begin the IT project; and GITA shall monitor the project, in accordance with paragraph C, until the identified conditions have been met.

Arizona Administrative Register
Notices of Proposed Rulemaking

- b. If GITA disapproves the IT project, the budget unit shall not begin the IT project and shall not enter into any related contract or vendor agreement.
4. The budget unit may appeal a GITA decision to disapprove an IT project in accordance with Article 4 of this Chapter and all ITAC requirements.
- B. If an IT project has a projected development cost of more than \$1 million, GITA shall, as staff to ITAC, process the completed PIJ in accordance with criteria in the PSP Program, and make recommendations regarding the proposed IT project to ITAC.
- C. IT project monitoring GITA shall determine if an IT project is critical or major. For critical or major IT projects, GITA shall monitor project progress through periodic project status reports, as defined in the PSP Program, required from the responsible budget unit.
- D. If GITA or ITAC determines that the IT project is at risk of failing to achieve its intended results or does not comply with A. R. S. Title 41 Chapter 32, GITA shall either, as appropriate:
1. Temporarily suspend the expenditure of monies for the IT project or
 2. Recommend to ITAC that ITAC temporarily suspend the expenditure of monies for the IT project.
- B. If the IT plan is incomplete, GITA shall identify deficiencies and return the IT plan to the budget unit for completion and resubmission to GITA.
- C. Use of a complete budget unit IT plan:
1. GITA shall send written notice to the budget unit of receipt of a complete Budget Unit IT Plan.
 2. GITA shall review the proposed complete Budget Unit IT Plan and either approve or disapprove the proposed plan.
 3. GITA shall provide notice to the budget unit of GITA's decision to approve or disapprove the IT plan.
- D. The budget unit may appeal a GITA decision to disapprove a budget unit IT plan to ITAC, in accordance with Article 4 of this Chapter and all ITAC requirements.
- E. Modification of an approved budget unit IT plan:
1. A budget unit shall not modify an approved budget unit IT plan without notifying, and receiving approval from, GITA.
 2. GITA shall review a proposed modification of a budget unit IT plan, in accordance with subsections B and C.

ARTICLE 4. APPEALS OF GITA DECISIONS

R2-18-401. Appeals.

- A. A budget unit that wishes to appeal a decision by GITA regarding the disapproval of an IT project or a budget unit IT plan, shall file a written appeal with ITAC within 30 days from receipt of notice of the GITA decision being appealed.
- B. The decision by GITA that is being appealed shall remain in effect until ITAC considers the appeal and renders a decision. An appealing budget unit shall not resume or initiate any project activity or expense until a final decision is rendered by ITAC.

**ARTICLE 3. INFORMATION TECHNOLOGY
PLANNING**

R2-18-301. IT Planning

- A. Using instructions from the PSP Program, a budget unit shall develop the IT plan and submit it to GITA, pursuant to A.R.S. Title 41, Chapter 32.

NOTICE OF PROPOSED RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 4. DEPARTMENT OF AGRICULTURE

PLANT SERVICES DIVISION

PREAMBLE

- | | | | | | | | | | |
|---|---|-------|----------------------------------|----------|--|------------|----------------|------|----------------|
| <p>1. <u>Sections Affected</u></p> <p style="padding-left: 20px;">R3-4-205
Article 5
R3-4-501</p> | <p><u>Rulemaking Action</u></p> <p style="padding-left: 20px;">Renumber
New Article
Renumber</p> | | | | | | | | |
| <p>2. <u>The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):</u></p> <p style="padding-left: 20px;">Authorizing statute: A.R.S. § 3-205.02</p> <p style="padding-left: 20px;">Implementing statute: A.R.S. §§ 3-201.01, 3-204, 3-205, and 3-205.02</p> | | | | | | | | | |
| <p>3. <u>The name and address of agency personnel with whom persons may communicate regarding the rulemaking:</u></p> <table border="0" style="width: 100%;"><tr><td style="width: 30%;">Name:</td><td>Shirley Conard, Rules Specialist</td></tr><tr><td>Address:</td><td>Arizona Department of Agriculture
1688 West Adams, Room 124
Phoenix, Arizona 85007</td></tr><tr><td>Telephone:</td><td>(602) 542-0962</td></tr><tr><td>Fax:</td><td>(602) 542-5420</td></tr></table> | | Name: | Shirley Conard, Rules Specialist | Address: | Arizona Department of Agriculture
1688 West Adams, Room 124
Phoenix, Arizona 85007 | Telephone: | (602) 542-0962 | Fax: | (602) 542-5420 |
| Name: | Shirley Conard, Rules Specialist | | | | | | | | |
| Address: | Arizona Department of Agriculture
1688 West Adams, Room 124
Phoenix, Arizona 85007 | | | | | | | | |
| Telephone: | (602) 542-0962 | | | | | | | | |
| Fax: | (602) 542-5420 | | | | | | | | |

Arizona Administrative Register
Notices of Proposed Rulemaking

4. An explanation of the rule, including the agency's reasons for initiating the rule:

The colored cotton rule sets up the requirements for colored cotton production including the use of cotton appliances and gins; the transportation or handling of colored cotton; the labeling, moving and delinting procedures of seed; and the establishment of the colored cotton advisory committee.

Since the rule was promulgated in 1994, several problems have arisen concerning gin trash, plant-back restrictions, transportation contamination and the disposal of colored cottonseed and colored seed cotton.

The rule did not specifically address gin trash that, according to ginner, cannot be effectively crushed to render all seed sterile. Subsection (C) now allows for 3 alternatives for the disposal of gin trash. In the case of colored cotton grown in Wenden and ginned in Casa Grande, it was not economically feasible for the grower or the gin to transport all of the gin trash back to Wenden for disposal. To correct this problem subsections (C) and (E) provide an alternative method of rendering the seed sterile and give other options for disposal.

Subsection (C)(1)(a) stated that colored cottonseed and fiber, cleaned from cotton equipment, is to be disposed of on the property on which the colored cotton was grown. However, by definition, the term "cottonseed" means processed seed cotton. Because this portion of the rule was primarily referring to cotton equipment used to harvest or transport raw cotton, the term "seed cotton" was added to the cleaning requirement. This subsection further requires colored cotton producers, contractors and ginner to notify the Department at least 48 hours in advance to arrange an inspection of the cotton appliances or gins.

Subsection (C)(1)(b) required all seed to be rendered sterile by crushing and the lint to be baled or bagged and marked as colored cotton. As with gin trash, motes (very small particles or specks) cannot be effectively crushed to render all seed sterile. These methods of dealing with cottonseed, seed cotton, fiber, and gin trash has been moved to the appropriate areas in subsections (E) and (F).

The rule currently does not require cotton trailers to be tarped or module trucks to be totally enclosed. Both pose a potential source of contamination of neighboring white cotton fields from colored cotton falling or blowing off the transports. The new subsection (D) addresses this problem.

Subsection (F)(1) requires the producer or the contracting organization to notify the Department when they save colored cottonseed for propagative purposes. The current subsection (F)(1) and a portion of subsection (F)(2) is being removed because it is not necessary for the Department to track seed being shipped out of state. Seed sold out of state will be regulated by federal rules. Subsection (F)(2) deals with seed delinted in the state and is unnecessary.

The responsibilities of the advisory committee were clarified in subsection (G). The advisory committee's function is to discuss and provide advice on colored cotton statutes and rules dealing with enforcement requirements, not on internal policies that deal with employee procedures.

After working through the various rule changes it was suggested that, since colored cotton is not a pest, the colored cotton rule be removed from the quarantine Article and placed elsewhere. Therefore, the rule is being renumbered and placed in the previously repealed Article 5.

5. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

6. The preliminary summary of the economic, small business, and consumer impact:

This rule establishes the requirements for producing colored cotton and provides strict regulations to protect the existing cotton industry from potential colored fiber and seed contamination. Because colored cotton production in Arizona did not meet the projected expectations stated in the original rulemaking and, in fact, no colored cotton is scheduled to be grown in 1997/1998, the Department considered not taking any action on this rule. However, a commitment was made to set up an effective program and much time and training has already been expended toward this program. It makes sense to fix the areas that are deficient because colored cotton may be grown in the future.

A. The Arizona Department of Agriculture.

Regulating colored cotton is a labor intensive responsibility for the Department and 80 hours of manager time, and 400 hours of Department time was projected in training for the 1st year of the program. Actual time administering the program from January 1996 through December 1996 was 793.5 hours and included inspector time in the field and in-house manager time.

After Department personnel were trained, they trained growers and employees how to deal with the cleaning and handling of their appliances and gins, and in the handling of colored cotton and cottonseed. This training insured compliance and reduced the danger of contamination.

The Department did not hire the temporary staff person proposed in the original economic impact statement as the added record-processing for this program did not materialize. The colored cotton record-processing was handled by current staff.

The Department carried a tremendous responsibility to ensure that this program would not jeopardize Arizona's international white cotton status. The additional inspections such as, preplanting inspection; harvest inspection; movement of cotton at farm, gin or both; verification of appropriate removal of lint or cottonseed at a farm or gin; and 2nd crop inspection helped with this assurance. The Department also ensured that appliances were free from contaminating fiber and seed by conducting an inspection.

Arizona Administrative Register
Notices of Proposed Rulemaking

tion of every appliance, such as planter, plow, disk, picker, rood, trailer, shredder, etc., after its use.

The Department furnished a sign for each appliance used in the production of colored cotton to indicate Department certification of that appliance. The cost of these signs coincided with the \$500 proposed cost.

The major concern of producing naturally colored cotton in Arizona is the potential for contamination of both fiber and seed. Colored cotton fiber does not accept dyes the way white cottons do. If a few colored fibers get mixed in a white bale, flaws will appear in the dyed fabrics. The value of any contaminated white cotton bales would be discounted. Because of this concern for contamination, it is necessary that the Department know who are the colored cotton producers and ginners.

B. Colored Cotton Growers.

It was anticipated that during the 1st year of regulation there would be approximately 10,000 acres of colored cotton grown in Arizona. This acreage was estimated to include 6 to 10 colored cotton growers.

Growing Season	Number of Growers	Number of Acres
1995 - 1996	4	1,188.5
1996 - 1997	1	35
1997 - 1998	0	0

The above chart shows that the original forecast for the colored cotton industry in the state was inaccurate. This is, in part, due to the concern of Arizona's cotton grower's over the possibility of contamination and the stringent rules that were originally promulgated. Perhaps more significant is the fact that the colored cotton growers had a difficult time finding land that met the growing conditions needed for cotton and also met the requirements for separation of white and colored cotton. The loss of major contracts for the sale of colored cotton crops is certainly an issue. The economic potential offered through the production of colored cotton in Arizona was a good and healthy reason to originally promulgate these rules, however the economic climate and strict growing requirements have not made it easy for the colored cotton grower.

Colored cotton production is a niche that allows growers to augment their return per unit of production. Growers producing organically grown white cotton should also benefit due to the demand for organic fabrics blended with naturally colored cottons.

C. Gin Operators.

To protect the white cotton industry from colored cotton contamination, colored cotton gins are inspected by the Department to ensure they are thoroughly cleaned. Inspecting these cotton gins is a huge undertaking, 1 that requires that the ginner and the inspector examine every part of the gin to make certain that cotton lint or seed has been removed. It was thought that as the program unfolded, gins processing colored cotton might become dedicated to that commodity. Because colored cotton crops did not flourish as projected, gins did not realize the amount of business that would warrant dedicating a gin to colored cotton.

The ginner, however, still has to remove the colored cottonseed, seed cotton and loose lint with a high pressure spray or steam cleaner. The expense in equipment and time is a necessary expense to stop the possibility of contamination and was borne by the grower.

D. Consumers and the Public.

Through the sale of colored cotton, the consumer is given another choice in the clothing marketplace to purchase clothing that is, not only free of synthetic dyes, but actually improves its color with each washing.

Beginning colored cotton sales was healthy and the trend to purchase "environmentally friendly" clothing found many buyers.

7. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Shirley Conard
Address: Arizona Department of Agriculture
1688 West Adams, Room 124
Phoenix, Arizona 85007
Telephone: (602) 542-0962
Fax: (602) 542-5420

8. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Date: Tuesday, February 17, 1998
Time: 10 a.m.
Location: Arizona Department of Agriculture
1688 West Adams, Room 206
Phoenix, Arizona 85007
Nature: Public Hearing

Arizona Administrative Register
Notices of Proposed Rulemaking

Written comments on the proposed rules or preliminary economic, small business, and consumer impact statement must be received by 4 p.m., February 18, 1998. Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Department's coordinator, Patrick Stevens, (602) 542-4316 (voice) or 1-800-367-3839 (TDD Relay). Requests should be made as early as possible to allow time to arrange the accommodation.

9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
None.
10. Incorporations by reference and their location in the rules:
None.
11. The full text of the rules follows:

TITLE 3. AGRICULTURE
CHAPTER 4. DEPARTMENT OF AGRICULTURE
PLANT SERVICES DIVISION

ARTICLE 5. COLORED COTTON

Section

~~R3-4-205.~~ R3-4-501. Colored Cotton Production and Processing

ARTICLE 5. COLORED COTTON

~~R3-4-205.~~ R3-4-501. Colored Cotton Production and Processing

- A. Definitions. In addition to the definitions provided in A.R.S. § 3-101 and A.A.C. R3-4-102, the following shall terms apply to this rule Section:

1. "Certified" means having been inspected with a written certificate of inspection issued by an inspector of the Department.
2. "Colored cotton" means any variety of cotton plants of the Genus *Gossypium* which that produces fiber which that is naturally any color other than white.
3. "Cottonseed" means processed seed cotton that will be used for propagation, erushed animal feed, crushed or composted fertilizer, or oil.
4. "Composting" means the process by which carbon-based materials are digested aerobically or anaerobically by microbial action.
- ~~4-5.~~ "Delinting" means the process of removal of using acid, flame, or mechanical means to remove fiber which that remains on cottonseed after ginning, including either acid or flame techniques.
- ~~5-6.~~ "Planting seed" means seed of a known variety produced for planting subsequent generations.
- ~~6-7.~~ "Seed cotton" means raw cotton containing seed and lint which that has been harvested from a field, but has not been ginned.
- ~~7-8.~~ "White cotton" means any variety of the Genus *Gossypium* which that produces white fiber as prescribed estab- lished in 28 U.S.C. 401 through 451, the Official Cotton Standards of the United States for the Color Grade of American Upland Cotton, revised July 1, 1993; and Cotton Classification Results, revised July 1994. This material; is incorporated herein by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.

- B. Production requirements.

1. All producers A producer who intend intends to grow colored cotton shall register in writing with the Department. The registration form shall be received no less than at least 30 days prior to before the cotton planting dates for the applicable cultural cotton zone zones as prescribed established in R3-4-204. Any producer grow-

ing colored cotton who does not register with the Department shall be abated as established in A.R.S. §§ 3-204 and 3-205, or assessed a civil penalty as estab- lished in A.R.S. § 3-205.02. The registration shall include:

- a. The name, address, telephone number, and signature of the producer;
 - b. The name, address, telephone number, and signature of the property owner;
 - c. The name, address and telephone number of the organization or company contracting for the production of colored cotton or to whom the colored cotton will be sold, if known;
 - d. The total number of acres to be planted;
 - e. The geographical location of the proposed fields by county, section, township and range; and
 - f. The name of the property owners, if known, adjacent to the field where colored cotton will be grown.
2. Separation of white and colored cotton.
- a. The A colored cotton producer shall ensure that all colored cotton is planted no less than 500 feet from any white cotton field.
 - b. All producers of white cotton saved for planting seed shall have complied comply with the Field Standards, as set forth in the Arizona Crop Improvement Association's Cotton Seed Certification Standards established by the Arizona Crop Improvement Association. The Cotton Seed Certification Standards, revised July 1992 1995. This material is are incorporated herein by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State. These standards do not include any later amendments or editions of the incorporated matter.
3. White cotton A producer shall not be planted plant white cotton on land on which colored cotton has been grown until one 1 or more irrigated non-cotton crop crops or more has have been produced on that land. If the non-cotton crop is not grown during a traditional cotton growing season, as prescribed established by R3-4-204(E), the field shall be pre-irrigated prior to before planting a white cotton crop.
4. The Department shall notify all farmers cotton produc- ers of the colored cotton plant-back restrictions and of the availability of location and acreage records of colored cotton crops.

Arizona Administrative Register
Notices of Proposed Rulemaking

5. The Department shall notify the Arizona Crop Improvement Association of the registered colored cotton geographical locations no less than at least 25 days prior to before the cotton planting date for each cultural cotton zone prescribed established in R3-4-204.

C. Cotton appliances.

1. ~~The Department shall inspect and certify all cotton appliances and gins used in the production, transportation or handling of colored cotton after the gins and appliances are cleaned of colored cottonseed and prior to being used for the production, transportation or handling of white cotton. No cotton producer, contractor, or ginner shall use a cotton appliance or gin to produce, transport, or handle white cotton after the gin or appliance has been used in the production, transportation and handling of colored cotton until the Department inspects the cotton appliance or gin and finds it free of colored cottonseed, seed cotton, fiber and gin trash. A cotton producer, contractor, or ginner shall notify the Department at least 48 hours, excluding Sundays and legal holidays, before an inspection is needed.~~
- a. ~~2. Colored seed cotton, cottonseed, and fiber, and gin trash cleaned from cotton equipment, shall be composted or disposed of by the producer or ginner, as appropriate, on the property land where the gin trash has been disposed and the land is managed as specified in subsection (B)(3); or in a landfill approved by the Department.~~
- b. ~~Colored cottonseed and fiber which cannot be disposed of as set forth in subparagraph (C)(1)(a) shall be rendered sterile by crushing the seed or, in the case of lint, shall be baled or bagged and marked as colored cotton.~~
2. ~~3. The Department shall legibly mark Cotton cotton appliances designated for exclusive use on colored cotton crops shall be legibly marked by the Department.~~

D. Transportation. Except in gin yards, colored cottonseed or colored seed cotton transported over public roads shall be totally enclosed or covered.

D-E. Gin requirements.

1. The A gin owner or manager planning to process colored cotton shall notify the Department, in writing, no less than 30 days prior to before processing the colored cotton.
2. The Department shall notify the Arizona Crop Improvement Association of a gin owner's or manager's intention to process colored cotton within 10 days from the receipt of the notification by the gin.
3. The A gin owner or manager processing colored cotton shall not process white cotton until the gin has been cleaned, and certified inspected and found by the Department to be free of cottonseed, seed cotton and loose lint cotton as prescribed established in paragraph subsection (C)(1).
4. If a gin processes colored seed cotton and white seed cotton during the same season, unless the white cottonseed is retained by the plant breeder for research purposes, the producer shall be marketed market the white cottonseed as crushed animal feed, crushed or composted fertilizer, or oil.
5. Colored The ginner shall legibly mark colored seed cotton kept in the gin-yard or gin buildings and shall be legibly marked and isolated isolate the seed cotton at least 500 feet from white seed cotton or shall be enclosed

enclose it with two 2 foot high chicken wire or chain link fencing.

6. ~~Gin trash not disposed of as established in subsection (C)(2) shall be shipped out of state, subject to the requirements of the receiving state and 7 CFR 301.52 et seq., amended August 30, 1994. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.~~
7. ~~The ginner shall bale or bag colored cotton fiber and mark it as colored cotton.~~

E-F. Seed Requirements.

1. The A producer or the contracting organization, set forth in paragraph subsection (B)(1), saving colored cottonseed for propagative purposes shall legibly label the colored planting seed and shall notify the Department of:
 - a. The quantity;
 - b. The variety or color; and
 - c. The location where the colored planting seed is held or stored; and
 - d. Whether any seed will be shipped out of state.
2. ~~The producer or the contracting organization set forth in paragraph (B)(1) shall notify the Department within 5 days prior to moving colored cottonseed from a holding or storage area. The notification shall include:~~
 - a. The quantity to be moved;
 - b. The destination of the seed;
 - c. The receiver of the seed; and
 - d. The intended use of the seed.
3. ~~2. The producer or the contracting organization set forth in paragraph (B)(1) shall notify the Department of the state where the cotton is being sent for delinting. If the cotton seed is being delinted in Arizona, the delinting facility shall follow the requirements in Harvesting, Handling and Tagging which that are included in the Cotton Seed Certification Standards and have been incorporated by reference in subparagraph subsection (B)(2)(b).~~
4. ~~3. Non-delinted The producer shall render non-viable non-delinted (fuzzy) colored cottonseed not being used for propagative purposes shall be rendered non-viable by crushing or composting. Whole or cracked colored cottonseed shall not be used as animal feed in Arizona but may be shipped out of state, subject to the requirements of the receiving state and 7 CFR 301.52 et seq.~~
5. ~~4. The Department shall inspect vehicles and other equipment transporting whole or cracked colored cottonseed and shall certify the vehicles and equipment free of colored cotton seed before being used to transport any white planting seed. Cotton producers shall not transport unbagged white planting seed using vehicles or other equipment previously used to transport whole or cracked colored cottonseed until the Department certifies that these vehicles and equipment are free of colored cottonseed.~~

F-G. Advisory committee. The Director shall appoint an advisory committee, pursuant to under A.R.S. § 3-106, to review colored cotton policy statutes and rules, inspection procedures, and certification methods. The committee shall be appointed for two 2-year staggered terms and a member may be reappointed one for 1 additional term. The committee shall consist of one 1 representative from each of the following categories:

1. The Cotton Research and Protection Council;
2. The Arizona Crop Improvement Association;
3. The Arizona Department of Agriculture;
4. The Arizona Cotton Growers Association;
5. A colored cotton producer;
6. A ginner ginning colored cotton; and
7. A contractor for the production of colored cotton.

NOTICE OF PROPOSED RULEMAKING

TITLE 13. PUBLIC SAFETY

CHAPTER 3. DEPARTMENT OF PUBLIC SAFETY

TOW TRUCKS

PREAMBLE

1.	<u>Sections Affected</u>	<u>Rulemaking Action</u>
	Article 1	Repeal
	R13-3-101	Repeal
	Article 2	Repeal
	R13-3-201	Repeal
	R13-3-202	Repeal
	R13-3-203	Repeal
	R13-3-204	Repeal
	Article 3	Repeal
	R13-3-301	Repeal
	R13-3-302	Repeal
	R13-3-303	Repeal
	R13-3-304	Repeal
	R13-3-305	Repeal
	R13-3-306	Repeal
	R13-3-307	Repeal
	R13-3-308	Repeal
	Article 4	Repeal
	R13-3-401	Repeal
	R13-3-402	Repeal
	Article 5	Repeal
	R13-3-501	Repeal
	Article 6	Repeal
	R13-3-601	Repeal
	R13-3-602	Repeal
	R13-3-603	Repeal
	R13-3-604	Repeal

2. The specific authority for the rulemaking, including both the authorizing statute(general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 28-1108(C)

Implementing statutes: A.R.S. § 28-1108

- 3. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Lt. K.F. Barton
Address: Special Services Region
2610 South 16th Street
or
P.O. Box 6638
Phoenix, Arizona 85005-6638

Telephone: (602) 223-2522

Fax: (602) 223-2508

- 4. An explanation of the rule, including the agency's reasons for initiating the rule:**

The Department of Public Safety is updating and reorganizing the rules regulating tow trucks. Except for minor changes in 1985, these rules have not been updated for 25 years. In the meantime, tow trucks, tow truck equipment and related safety stan-

Arizona Administrative Register
Notices of Proposed Rulemaking

dards have changed significantly. With assistance from members of the Motor Vehicle Towing Advisory Council and other interested parties, the Department is repealing the existing rules at 13 A.A.C. 3 and replacing them with new rules in a concurrent rulemaking.

5. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:
Not applicable.
6. The preliminary summary of the economic, small business, and consumer impact:
The Department of Public Safety is repealing its current rules and intends to concurrently adopt new rules that will improve readability and make the rules easier to use. After a public comment period, the Department will complete its analysis of the economic impacts and publish the results with the final rulemaking. Most businesses and motorists will benefit from the new rulemaking.
7. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business and consumer impact statement:
Name: Lt. K.F. Barton
Address: Special Services Region
P.O. Box 6638
Phoenix, Arizona 85005-6638
Telephone: (602) 223-2522
Fax: (602) 223-2508
8. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:
No oral proceedings or public hearings on the repeal of these rules are scheduled. The Department will schedule a public hearing on the proposed rules if a written request for the hearing is submitted to the agency representative listed in question #3 by at least 5 persons. Written comments on the proposed rules or preliminary economic, small business, and consumer impact statement may be submitted to the address listed in question #3 by no later than 5 p.m., February 27, 1998.
9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
Not applicable.
10. Incorporations by reference and their location in the rules:
Not applicable.
11. The full text of the rules follows:

TITLE 13. PUBLIC SAFETY
CHAPTER 3. DEPARTMENT OF PUBLIC SAFETY
TOW TRUCKS

ARTICLE 1. GENERAL PROVISIONS REPEALED

Section

R13-3-101. Definitions Repealed

ARTICLE 2. TOW TRUCK PERMITS REPEALED

Section

- R13-3-201. Permit required Repealed
R13-3-202. Permit application Repealed
R13-3-203. Inspection by the Department Repealed
R13-3-204. Permit suspension and application refusal Repealed

ARTICLE 3. TOW TRUCK SPECIFICATIONS REPEALED

Section

- R13-3-301. Capacities and specifications of towing equipment Repealed
R13-3-302. Tow truck load limitations Repealed
R13-3-303. Prohibition of unauthorized operation Repealed
R13-3-304. Light duty tow trucks Repealed
R13-3-305. Medium duty tow trucks Repealed
R13-3-306. Heavy duty tow trucks Repealed
R13-3-307. Class "X" tow trucks Repealed
R13-3-308. Service trucks Repealed

ARTICLE 4. TOW TRUCK EQUIPMENT SPECIFICATIONS REPEALED

Section

- R13-3-401. General tow truck lighting and equipment Repealed
R13-3-402. Tow truck components must be in good operating condition Repealed

ARTICLE 5. QUALIFICATIONS OF TOW TRUCK OPERATORS REPEALED

Section

- R13-3-501. Chauffeurs license, skills, and knowledge required Repealed

ARTICLE 6. ENFORCEMENT OF RULES AND REGULATIONS REPEALED

Section

- R13-3-601. Revocation or suspension of permit Repealed
R13-3-602. Grounds for suspension of permit Repealed
R13-3-603. Grounds for revocation of permit Repealed
R13-3-604. Appeals from tow truck enforcement action Repealed

Arizona Administrative Register
Notices of Proposed Rulemaking

ARTICLE 1. GENERAL PROVISIONS REPEALED

R13-3-101. Definitions Repealed

Words and phrases not defined hereinafter shall be consistent with definitions in Title 28, Arizona Revised Statute.

1. "Accident recovery work" means the towing or removal of a vehicle involved in an accident upon any highway or roadway and is damaged to the extent that an investigation by a law enforcement agency is required.
2. "Department" means the Arizona Department of Public Safety.
3. "Director" means the Director of the Department of Public Safety.
4. "Permit" means the Department of Public Safety tow truck permit inspection sticker required on all tow trucks.
5. "Power operated winch" means a winch operated by power including, but not limited to, power take-off, hydraulic, or electric.
6. "Tow truck" means a motor vehicle which is altered or designed for, and used in the business of towing vehicles by means of a flat bed or other specially designed truck that is equipped with a tow sling, tow bar, tow plate or wheel lift apparatus, attached to the rear of the truck; or a crane or hoist that is attached to the bed or frame of the tow truck. Wrecker, garage tow truck, and slide back or roll back car carriers are synonymous and shall be termed "Tow Truck".
7. "Towing service" means the transportation upon the public streets and highways of the state of Arizona of damaged, disabled, unattended or abandoned vehicles together with personal effects and/or cargo by tow trucks. Wrecker service, tow car service, and garage tow truck service are synonymous and shall be termed "Towing Service".

ARTICLE 2. TOW TRUCK PERMITS REPEALED

R13-3-201. Permit required Repealed

A permit of authorization must be obtained from the Department before a tow truck is operated for the purpose of towing vehicles.

R13-3-202. Permit application Repealed

- A. Applications for permits shall be made under oath to the Department of Public Safety in writing upon forms prescribed and furnished by the Department. The application shall contain all information required therein and shall be submitted to the Tow Truck Section, Arizona Department of Public Safety, P.O. Box 6638, Phoenix, Arizona, 85005. The Department shall be notified within 10 days of any change of information supplied on the original application.
- B. In filing the application, the applicant expressly agrees, under penalty of suspension or revocation of his/her permit(s), that:
 1. All rules and regulations set forth herein will be followed.
 2. Any person operating a tow truck for his/her company will have the necessary experience and qualifications to operate a tow truck in the manner required by these rules and regulations.
- C. The Department shall issue a permit upon determining that the application was made and filed in good faith, that all submitted information is accurate, that the applicant and the applicant's towing equipment have met the minimum requirement established in law and in these rules and regulations. The Department may deny the application if any of the above conditions are not satisfied.

- D. If at any time a tow truck is sold, leased or otherwise disposed of, the tow truck owner shall notify the Department of the disposition of the truck and the permit issued for said truck shall immediately become null and void. Any person having subsequent control over said truck shall make application to the Department before operating said tow truck as a tow truck within the state.

R13-3-203. Inspection by the Department Repealed

- A. As soon as possible after the tow truck application has been filed, the Department may cause a physical inspection of the tow truck to be conducted. If the tow truck is found to conform to the minimum standards of the class permit requested and the application meets the requirements as set forth in these rules and regulations, and the application is approved, said tow truck shall be issued a permanent identification number by the Director. This identification number shall be affixed inside the cab of the tow truck by the Department inspector.
- B. In addition to the identification number, the tow truck shall be issued an annual permit in the form of an inspection sticker which shall contain such pertinent information as is deemed necessary by the Department. This inspection sticker shall be conspicuously displayed on the outside lower right hand corner of the truck's front windshield.
- C. Annual inspections shall be conducted to determine the condition of the tow truck. A tow truck meeting the minimum standards for its class may be granted a renewal of the permit.
- D. Nothing in these rules shall serve to prohibit any peace officer from conducting an inspection without notice to determine the fitness of a tow truck at any reasonable time and place.
- E. If at any time a tow truck is found to be in need of repair to meet the minimum standards for its class, the annual permit shall be suspended and the tow truck shall be removed from service until such repairs are effected and the tow truck is inspected and recertified by the Department.

R13-3-204. Permit suspension and application refusal Repealed

- A. A tow truck permit may be suspended or an application may be refused for any 1 or more of the following conditions:
 1. Failure to supply true and accurate information on the permit application and inspection form.
 2. Failure to comply with any of these rules and regulations.
 3. Failure to submit to a tow truck inspection (refer to R13-3-203).
 4. Failure to display on the side of the tow truck, the business name, town and phone number of the tow truck company. The lettering used shall be in bold contrasting colors and at least 3 inches in height.

ARTICLE 3. TOW TRUCK SPECIFICATIONS REPEALED

R13-3-301. Capacities and specifications of towing equipment Repealed

- A. The minimum standards for each class of tow truck permits, referred to throughout these rules and regulations, shall be determined solely by the manufacturer's specifications for the capabilities and capacities of the tow trucks and all towing equipment, except that the Department may consider other evidence of such capabilities and capacities when it reasonably believes that the manufacturer's specifications overrate the tow truck's capacity.
- B. Each tow truck shall be equipped with only those winches and cranes that have been produced and constructed by a

Arizona Administrative Register
Notices of Proposed Rulemaking

manufacturer of such equipment, and which regularly produces winches and cranes of guaranteed quality. However, a winch or crane will not be prohibited by this Section if the tow truck owner submits to the Department certification from 1 reputable testing laboratory, regularly engaged in the testing of such equipment or similar equipment, indicating that the capacity of the winch or crane is not less than the class for which application has been made. All costs of such testing and certification shall be at the expense of the tow truck owner.

R13-3-302. Tow truck load limitations Repealed

No tow truck shall tow another vehicle unless the tow truck has a manufacturer's rating of 3/4 ton or higher, and the tow truck has been issued the appropriate permit required by these rules and regulations. Trucks with a manufacturer's rating of less than 1 ton shall not be permitted to do accident recovery work.

R13-3-303. Prohibition of unauthorized operation Repealed

- A.** No person shall stop at the scene of an accident or at or near a disabled vehicle for the purpose of soliciting an engagement for towing service, either directly or indirectly, nor furnish any towing service, unless he/she has been summoned to such scene by the owner or operator of a disabled vehicle or has been requested to perform such services at the request of a law enforcement officer or agency pursuant to that agency's procedures.
- B.** Tow truck operators shall not, without the express authorization of the responsible investigating agency, move any vehicle from a public highway or street or from any public property when such vehicle is abandoned, stolen, damaged, or left unattended, except that, notwithstanding the conditions imposed in R13-3-303(A) of these rules and regulations, operators may, in emergency cases, slide left, right, or otherwise move a vehicle damaged as the result of an accident, if the removal is for the purpose of extracting a person from the wreckage or to remove an immediate hazard to life and/or property. In no event shall the movement be more than is reasonable and necessary.

R13-3-304. Light duty tow trucks Repealed

- A.** At no time shall any light duty tow truck exceed its manufacturer's gross vehicle weight or the manufacturer's rated capacity for the wrecker assembly.
- B.** Light duty minimum specifications:
1. A gross vehicle weight rating of at least 8,000 pounds and rated by the manufacturer as 1 ton or more.
 2. A 4-speed transmission or the equivalent.
 3. A power-assisted service brake system adequate to control the movement of, and to stop and hold the combination of vehicles, under all conditions and on any grade on which they are operated.
 4. A parking brake system separate from the service brake system which shall be maintained in good working order at all times.
 5. At least dual rear wheels and tires or the equivalent.
- C.** Wrecker (crane) minimum specifications:
1. Total boom capacity of at least 4 tons.
 2. Power-operated winch with a capacity of at least 4 tons.
 3. Hand or electric-powered winches will not be used for accident recovery work.
 4. Winch power is determined by a single line pull.
 5. At least 100 feet of 3/8 inch diameter wire rope with a breaking strength of 12,200 pounds or more.
 6. At least 20 feet of 5/16 inch diameter chain with hooks with a safe working load of 1,750 pounds or more.
- D.** Light duty 1 ear carrier minimum specifications:

1. A gross vehicle rating of at least 8,000 pounds and rated by the manufacturer as 1 ton or more.
2. A 4-speed transmission or the equivalent.
3. A power-assisted service brake system adequate to control the movement of, and to stop and hold the combination of vehicles, under all conditions and on any grade on which they are operated.
4. A parking brake system separate from the service brake system which shall be maintained in good working condition.
5. At least dual rear wheels and tires or the equivalent.
6. A power-operated winch with a capacity of at least 4 tons with at least 50 feet of 3/8 inch diameter wire rope with a breaking strength of 12,200 pounds or more.
7. A bed assembly of at least 3/16 inch steel plate or the equivalent and at least 15 feet in length and at least 7 feet in width.
8. At least 20 feet of 5/16 inch diameter chain with hooks with a safe working load of 1,750 pounds or more.
9. If a tow plate (stinger) is attached to the rear of the tow truck bed or frame and used to raise the wheels of the towed vehicle off the ground, the stinger must have a tow bar capacity of at least 1,500 pounds.

R13-3-305. Medium duty tow trucks Repealed

- A.** At no time shall any medium duty tow truck exceed its manufacturer's gross vehicle weight or the manufacturer's rated capacity for the wrecker assembly.
- B.** Medium duty minimum specifications:
1. A gross vehicle weight rating of at least 15,000 pounds and rated by the manufacturer as 1 and 1 half tons or more.
 2. A 4-speed transmission or the equivalent.
 3. A power-assisted service brake system adequate to control the movement of and to stop and hold the combination of vehicles under all conditions and on any grade on which they are operated.
 4. When towing vehicles equipped with an air brake system, shall have the equipment necessary to join the air systems together in order to activate the brakes from the cab of the tow truck.
 5. A parking brake system separate from the service brake system which shall be maintained in good working order at all times.
 6. At least dual rear wheels and tires or the equivalent.
 7. At least 35 feet of 3/8 inch diameter chain with hooks with a safe working load of 2,450 pounds or more.
- C.** Double boom wrecker (crane) minimum specifications:
1. Total boom capacity of at least 10 tons.
 2. Double booms and lines, each to operate jointly and/or independently.
 3. Power-operated winches with a combined capacity of at least 10 tons.
 4. At least 2 winches of not less than 5 tons each.
 5. Winch power is determined by a single line pull.
 6. At least 150 feet of 3/8 inch diameter wire rope per winch drum with a breaking strength of 12,200 pounds or more.
- D.** Single boom wrecker (crane) minimum specifications:
1. Boom capacity of at least 10 tons.
 2. Boom line winch with a minimum capacity of at least 10 tons, with at least 150 feet of 1/2 inch diameter wire rope with a breaking strength of 21,400 pounds or more.
 3. Deck winch minimum capacity of at least 10 tons with at least 150 feet of 1/2 inch diameter wire rope with a breaking strength of 21,400 pounds or more.

Arizona Administrative Register
Notices of Proposed Rulemaking

E. Hydraulic wrecker assemblies minimum specifications:

1. Boom capacity of at least 10 tons.
2. Boom line(s) which operate jointly and/or independently.
3. Hydraulically operated winches with a combined capacity of at least 10 tons, with a deck winch minimum capacity of at least 10 tons except that 1 single boom line winch may be used instead, if it has the capacity of at least 10 tons and is used with a deck winch with a minimum capacity of at least 10 tons.
4. At least 150 feet of 3/8 inch diameter wire rope per winch drum with a breaking strength of 12,200 pounds or more.
5. At least 35 feet of 3/8 inch diameter chain with hooks with a safe working load of 2,450 pounds or more.

F. Medium duty 2-car carrier minimum specifications:

1. A gross vehicle weight of at least 15,000 pounds and rated by the manufacturer as 2 tons or more.
2. A 4 speed transmission or the equivalent.
3. A power assisted service brake system adequate to control the movement of, and to stop and hold the combination of vehicles, under all conditions and on any grade on which they are operated.
4. A parking brake system separate from the service brake system which shall be maintained in good working order at all times.
5. At least dual rear wheels and tires or the equivalent.
6. A hydraulically operated winch of at least 6 tons, with at least 50 feet of 3/8 inch diameter wire rope with a breaking strength of 12,200 pounds or more.
7. A bed assembly of at least 1/4 inch steel plate or the equivalent and at least 17 feet in length and at least 7 feet in width.
8. At least 30 feet of 3/8 inch diameter chain with hooks with a safe working load of 2,450 pounds or more.
9. If a tow plate (stinger) is attached to the rear of the tow truck structure and used to raise the wheels of the towed vehicle off the ground, the stinger must have a tow bar capacity of at least 3,500 pounds.

G. Medium duty 3-car carrier minimum specifications:

1. A gross vehicle weight of at least 22,000 pounds.
2. A 4 speed transmission or the equivalent.
3. A power assisted service brake system adequate to control the movement of, and to stop and hold the combination of vehicles, under all conditions and on any grade on which they are operated.
4. A parking brake system separate from the service brake system which shall be maintained in good working order at all times.
5. At least dual rear wheels and tires or the equivalent.
6. A hydraulically operated winch of at least 6 tons, with at least 50 feet of 3/8 inch diameter wire rope with a breaking strength of 12,200 pounds or more.
7. A bed assembly of at least 1/4 inch steel plate or the equivalent and at least 17 feet in length and at least 7 feet in width, a bed assembly over the cab of at least 3/16 inch steel plate or the equivalent and at least 10 feet in length and at least 7 feet in width.
8. At least 30 feet of 3/8 inch diameter chain with hooks with a safe working load of 2,450 pounds or more.
9. If a tow plate (stinger) is attached to the rear of the tow truck structure and used to raise the wheels of the towed vehicle off the ground, the stinger must have a tow bar capacity of at least 3,500 pounds.

R13-3-306. Heavy duty tow trucks Repealed

A. At no time shall any heavy duty tow truck exceed its manufacturer's gross vehicle weight or the manufacturer's rated capacity for the wrecker assembly, provided that the manufacturer's weights are not in excess of the legal limitations of A.R.S. §§ 28-1008 and 28-1009.

B. Heavy duty minimum specifications:

1. A gross vehicle rating of at least 35,000 pounds (usually rated by the manufacturer as 3 1/2 tons).
2. Tandem rear axles, equipped with dual rear wheels and tires, or the equivalent.
3. A 5 speed main transmission or the equivalent.
4. A brake system equipped with a truck tractor protection valve.
5. Full air brakes so constructed and controlled as to permit locking of all rear wheels (air lock).
6. A dependable parking brake system separate from the service brake system which shall be maintained in good working order at all times.
7. Required accessories:
 - a. Trailer hitch: pintle hook type or the equivalent.
 - b. 1 semi trailer converter dolly or 5th wheel mount. Option: If a converter dolly or 5th wheel mount is not owned by the wrecker owner, he must have 1 immediately available at all times. Documentary proof must be filed with the Department for the above option when the application for permit is filed.
 - c. Chain with hooks meeting the following specifications:
 - i. At least 35 feet of 3/8 inch diameter chain with a safe working load of 2,450 pounds or more.
 - ii. At least 20 feet of 5/8 inch diameter chain with a safe working load of 6,375 pounds or more.
 - d. Air lines: At least 75 feet of auxiliary air lines with the necessary fittings in 2 sections of appropriate length. These sections will connect to the air supply of the towed vehicle for the purpose of brake application.

C. Double boom wrecker (crane) minimum specifications:

1. A total capacity of at least 25 tons.
2. Double booms and lines each to operate jointly and/or independently.
3. Power operated winches combined capacity of at least 25 tons.
4. At least 2 winches of at least 12 1/2 tons capacity each.
5. Winch power is determined by a single line pull.
6. At least 200 feet of 9/16 inch diameter wire rope with a breaking strength of 27,000 pounds or more.

D. Single boom wrecker (crane) minimum specifications:

1. Boom line winch with a minimum capacity of at least 25 tons with at least 200 feet of 3/4 inch diameter wire rope with a breaking strength of at least 51,200 pounds or more.
2. Deck winch with a minimum capacity of at least 15 tons with at least 200 feet of 5/8 inch diameter wire rope with a breaking strength of at least 33,400 pounds or more.

E. Hydraulic wrecker assemblies minimum specifications:

1. Boom capacity of at least 25 tons.
2. Boom line(s) which operate jointly and/or independently.
3. Hydraulically operated winches with a combined capacity of at least 25 tons, except that 1 single boom line

Arizona Administrative Register
Notices of Proposed Rulemaking

winch may be used instead if it has a capacity of at least 25 tons and is used with a deck winch with a minimum capacity of 15 tons.

4. Double winches on a single boom with a minimum of 200 feet of 5/8 inch diameter wire rope per winch with a breaking strength of 27,000 pounds or more.
 5. A single winch on a single boom with a minimum of 200 feet of 3/4 inch diameter wire rope with a breaking strength of 33,400 pounds or more.
- F. Heavy duty car carrier minimum specifications:**
1. Gross vehicle weight of at least 35,000 pounds, rated by the manufacturer as 3 1/2 tons or more.
 2. Tandem rear axles equipped with dual rear wheels and tires or the equivalent.
 3. A 5 speed main transmission or the equivalent.
 4. Full air brakes.
 5. Air brakes so constructed and controlled as to permit locking of all rear wheels (air lock).
 6. A brake system equipped with truck tractor protection valve.
 7. A dependable parking brake system.
 8. A hydraulically operated winch with a minimum capacity of 10 tons, and at least 50 feet of 7/16 inch wire rope with a breaking strength of 33,400 pounds or more.
 9. A bed assembly of at least 3/8 inch steel plate or the equivalent, and at least 21 feet in length and at least 7 feet in width. A bed assembly over the cab of at least 3/16 inch steel plate or the equivalent and at least 10 feet in length and at least 7 feet in width.
 10. At least 40 feet of 1/2 inch diameter chain with hooks with a safe working load of 4,240 pounds or more.
 11. If a tow plate (stinger) is attached to the rear of the tow truck structure and used to raise the wheels of the towed vehicle off the ground, the tow plate (stinger) must have a tow bar capacity of at least 5,000 pounds.

R13-3-307. Class "X" tow trucks Repealed

- A.** Class "X" tow trucks shall not be used to render assistance or for accident recovery work but may be used for the purpose of towing vehicles from 1 location to another.
- B.** At no time shall any Class "X" tow truck exceed its manufacturer's gross vehicle weight or the rated capacity of the wrecker assembly.
- C. Class "X" truck minimum specifications:**
1. A gross vehicle weight rating of at least 7,500 pounds and rated by the manufacturer as a 3/4 ton or more.
 2. A 4 speed transmission or the equivalent.
 3. Dual rear wheels or the equivalent.
 4. A boom (crane) with a boom capacity of at least 3 tons and a single line winch capacity of at least 3 tons.
 5. Wire rope of at least 5/16 inch diameter with a breaking strength of 8,520 pounds or more.
 6. At least 20 feet of 5/16 inch diameter chain with hooks, with a safe working load of 1,750 pounds or more.
 7. Any class X roll back or slideback car carriers must meet the minimum specifications consistent with light, medium or heavy duty classes.
 8. Equipment required is that contained in R13-3-401(E) through (P), (R), (V), (X), (Z), (AA) and R13-3-402.

R13-3-308. Service trucks Repealed

- A.** Service trucks (Class S) shall not be used for accident recovery work but may be used to render assistance to vehicles.
- B.** At no time shall any service truck exceed its manufacturer's gross vehicle weight or the manufacturer's rated capacity for the wrecker assembly.

C. Service truck minimum specifications:

1. A gross vehicle weight rating of at least 7,500 pounds and rated by the manufacturer as a 3/4 ton or more.
2. A 4 speed transmission or the equivalent.
3. Dual rear wheels or the equivalent.
4. A boom (crane) with a:
 - a. Boom capacity of at least 3 tons and single line winch capacity of at least 3 tons.
 - b. Wire rope shall be at least 5/16 inch diameter with a breaking strength of at least 8,520 pounds or more.
 - c. At least 20 feet of 5/16 inch diameter chain with hooks with a safe working load of 1,750 pounds or more.
5. Accessories. Refer to R13-3-401 and R13-3-402 under General Tow Truck Lighting & Equipment Specifications for complete list of accessories required.

ARTICLE 4. TOW TRUCK EQUIPMENT SPECIFICATIONS REPEALED

R13-3-401. General tow truck lighting and equipment Repealed

- A.** Tow trucks shall comply with lighting and equipment requirements for trucks contained in Title 28, A.R.S. Additional equipment requirements relating specifically to tow trucks are contained in the following pages. If more detailed information is needed, a copy of Title 28, A.R.S. may be purchased from the Motor Vehicle Division of the Arizona Department of Transportation.
- B.** Warning lamps & lights required: Warning lights are to be used only at the scene of the service or in towing a vehicle which is damaged to the extent that it presents a hazard to other users of the street or highway. No red light shall be visible from in front of a vehicle.
1. Flashing type lamps. (Emergency top mount lights):
 - a. The color shall be amber to the front, amber or red to the rear with at least 2 lamps of at least 6 inches in diameter having a lens surface of at least 28.26 square inches each.
 - b. These lamps are to be mounted as high as practical and with their light visible from the front and rear for a distance of 500 feet under normal atmospheric conditions.
 2. Warning lamps may be wired independently or in conjunction with stop and signal lamps. If tail lamps are also incorporated, then either a separate bulb or a double contact type bulb shall be used.
- C.** A rotating beacon may be used in lieu of the 2 flashing lamps:
1. At least 1 beacon is required with amber lens or amber to the front and red to the rear.
 2. The beacon shall be mounted as high as practical with its light visible for 360 degrees for a distance of 500 feet under normal atmospheric conditions.
 3. Each beacon shall have at least 4 seal beams or at least 2 beacons with 2 seal beams each.
 4. The lens size of the beacon shall be at least 9 inches in diameter at its narrowest point, and 5 inches in height with a lens surface of 141.2 square inches. 2 smaller beacons may be used only if the total square inches of both at least equal that required of the 1 above.
 5. Beacons shall be wired independently of all other electrical circuits.
 6. Strobe lights may be used in lieu of rotating beacons or flashing lights.

Arizona Administrative Register
Notices of Proposed Rulemaking

- D. Work lamps:**
1. The lens shall be clear.
 2. The lens' diameter shall be at least 4 inches in diameter.
 3. There shall be at least 2 work lamps used in the system.
 4. Lamps shall be mounted so as to illuminate the area directly behind the tow truck for a distance of at least 50 feet.
 5. Work lamps shall be wired so they are not dependent on the position of the gear shift.
 6. Work lamps shall not be in operation while the tow truck is in forward motion.
- E. Portable tail, stop and signal lamps required:**
1. At least 2 separate lamps with mounting brackets or mounting clips:
 - a. The lens shall be red in color.
 - b. The lens' diameter shall be at least 3 inches each.
 2. Connections shall be made with suitable male and female connectors and flexible rubber or plastic cord. The portable lamps may be wired permanently to the truck's electrical system if a suitable bracket for both cord and lamp is provided:
 - a. All cord shall be measured from rear of tow truck:
 - i. Light duty, service duty, and Class "X": cord length of at least 25 feet.
 - ii. Medium duty: cord length of at least 30 feet.
 - iii. Heavy duty: cord length of at least 75 feet.
 - b. Lamp cords shall be flexible rubber or plastic containing at least 4 conductors of at least 16 gauge in a single manufactured cable. Single wires taped together are prohibited.
 3. Additional portable lamps required on heavy duty tow trucks:
 - a. Clearance lamps shall be incorporated with the portable lamp system and shall be mounted on the sides at the rear of a towed vehicle.
 - b. Clearance lamps shall have red lens and shall be of the type with a visibility range of at least 180 degrees.
 - c. Clearance lamps may be permanently wired to the portable lamp system or may be connected with suitable male and female electrical connectors to the tow truck system.
 - d. Electrical ground connections shall be made through the power supply cable in all portable lamp systems. Systems dependent on a towed vehicle for grounding are not acceptable.
- F. Use of portable lamps:**
1. Tow truck operators are required to affix 2 tail lights, 2 stop lights and 2 signal lights to the rear-most vehicle of any train of vehicles any time of day or night that the vehicles are towed or operated, on any street or highway.
 2. When a combination of vehicles is operated during the time that lighted lamps are required, there shall be exhibited on the rear of any towed vehicles at least 2 red tail lights.
- G. Head lamps:** See A.R.S. § 28-924.
- H. Tail lamps:** See A.R.S. § 28-925.
- I. Reflectors:** See A.R.S. §§ 28-926, 28-929, and 28-932.
1. All tow trucks shall have reflectors and clearance lamps on the front, sides and rear as required as by A.R.S. §§ 28-926, 28-929, and 28-932.
 2. Color, mounting and visibility of reflectors, clearance lamps and sidemarker lamps shall be consistent with A.R.S. §§ 28-931, 28-932, and 28-933.
- J. Stop lamps:** 2. See A.R.S. § 28-927. Meeting with specifications outlined under A.R.S. § 28-93(A)(1).
- K. Directional signals:** See A.R.S. § 28-939.
1. All tow trucks are required to be equipped with electrical flashing directional signals.
 2. Directional signals shall be connected in a manner so as to permit "4 way" flash.
- L. Horns:** See A.R.S. § 28-954.
- M. Mufflers:** See A.R.S. § 28-955.
- N. Mirrors:** See A.R.S. § 28-956.
1. All tow trucks are to be equipped with 2 side rear-vision mirrors, 1 at each side.
 2. The minimum size per mirror surface is 24 square inches.
- O. Windshield and windshield wipers:** See A.R.S. § 28-957.
- P. Certain vehicles must carry flares or other warning devices, i.e. 3 red fuses (15 minutes), 3 electric lanterns or 3 portable reflectors.** See A.R.S. § 28-960.
- Q. Clearance lamps and side reflectors:**
1. All tow truck assemblies, regardless of their width, shall have clearance lamps and side reflectors as described in A.R.S. § 28-929(2).
 2. Two amber cab clearance lamps are required, showing amber to the front and mounted on the outside edge of the cab.
 3. Color, mounting, and visibility of reflectors, clearance lamps, and sidemarker lamp shall be consistent with A.R.S. §§ 28-931, 28-932, and 28-933.
- R. Rear fender splash guards:** See A.R.S. § 28-958.01.
- S. Shovel and broom:**
1. All tow trucks shall have as part of their equipment a shovel and a broom, kept in good condition.
 2. The shovel shall be at least a No. 2 and shall be a square point type.
 3. The broom shall be a push broom and have at least a 14-inch head.
- T. Oil absorbing material:** All trucks operated in metropolitan areas shall have the following: Sand or a commercial oil and grease absorbent, or at least 1155 cubic inches of material or the equivalent of a 5-gallon can of material which can be carried in a weatherproof container.
- U. Electric lantern or flashlight:** All tow trucks shall have at all times in good working condition a battery-powered electric lantern, or a 2-cell flashlight in lieu of an electric lantern.
- V. Fire extinguishers:** Each tow truck shall be equipped with either:
1. A fire extinguisher having an Underwriters Laboratories rating of 5 B:C or more, or
 2. Two fire extinguishers, each of which has an Underwriters Laboratories rating of 4 B:C or more.
- W. Steering wheel clamp:** A steering wheel clamp or its equivalent shall be of sufficient strength to adequately lock the steering mechanism of a towed vehicle in a straight forward position.
- X. Tow sling or tow plate:**
1. Every tow truck shall be equipped with a tow sling, plate or bar, that is structurally adequate for any weight drawn. Slings or plates shall be properly and securely mounted on the tow truck without excessive slack.
 2. The tow plates, slings and tow bars shall be securely attached to the tow vehicle by means of chains and hooks. Attachment chains will have a capacity equal to the weight of the towed vehicle. At least 2 chains shall be used.

Arizona Administrative Register
Notices of Proposed Rulemaking

3. There shall be 1 snatch block of matched size to the rating of the wrecker assembly.
- Y. Attachment chains ("P" hooks):**
1. Every towed vehicle shall be coupled to the tow truck with attachment chains of a structural strength equal to the gross weight of the towed vehicle.
 2. Attachment chains shall be securely attached to the towing and towed vehicle with no more slack left in the chain or cable than is necessary to permit proper turning.
- Z. Tire chains (skid chains):**
1. Tow trucks are to be equipped with 1 set of tire chains for at least 1 driving wheel on each side whenever ice or snow makes driving conditions hazardous.
 2. Chains shall be maintained in good condition.
- AA. Tire equipment:**
1. Tires supporting the tow truck should be of such size and ply that the sum of their capacity as shown by the particular manufacturer shall at least equal the gross laden weight of the tow truck.
 2. Tire wear and replacement:
 - a. No tow truck shall be operated on any tire that has fabric exposed through the tread or sidewall.
 - b. Any tire on the front wheels of the tow truck shall have a tread groove pattern depth of at least 4/32 of an inch when measured at any point on a major tread groove.
 - c. Except as provided in subparagraph (b) of this Section, tires shall have a tread groove pattern depth of at least 2/32 of an inch when measured at any point on a major tread groove.
 - d. The Department tow truck inspector shall make the final decision concerning any question arising under this Section.

R13-3-402. Tow truck components must be in good operating condition Repealed

All tow truck components (i.e., winches, booms, cables, cable clamps, thimbles, sheaves, guides, controls, blocks, slings, chains, hooks, and hydraulic components), are to be maintained in good condition at all times. Cable fittings for hooks, slings, etc., shall be assembled by factory recommendations and specifications. All portable equipment (i.e., shovel, broom, reflectors, flashlights, fire extinguisher, etc.), shall be permanent accessories and be available on the truck at all times.

ARTICLE 5. QUALIFICATIONS OF TOW TRUCK OPERATORS REPEALED

R13-3-501. Chauffeurs license, skills, and knowledge required Repealed

- A.** No tow truck owner shall operate or permit anyone to operate a tow truck until the following requirements are fulfilled:
1. Tow truck operators shall have a valid Class "4" or "5" Arizona Chauffeurs license. A.R.S. § 28-414(B).
 2. Every operator shall be competent by reason of experience or training to safely operate the type of tow truck or tow trucks allowed by permit.
 3. Every operator shall possess the knowledge and ability to rig, move, pick up and transport vehicles without increasing the original damage insofar as possible.
 4. Every operator shall be free from the influence of alcoholic beverages, narcotics, or dangerous drugs when on duty.
 5. No tow truck company or individual shall operate a tow truck without displaying proof of current insurance in

accordance with A.R.S. §§ 28-1251, 28-1253, 28-1255. The tow truck company shall submit proof of current insurance to the Department of Public Safety upon demand.

- B.** Every owner and operator shall be familiar with the laws and rules and regulations pertaining to tow trucks.

ARTICLE 6. ENFORCEMENT OF RULES AND REGULATIONS REPEALED

R13-3-601. Revocation or suspension of permit Repealed

- A.** Any person who violates any rule or Regulation herein may have his/her tow truck permit(s) revoked or suspended by the Director or his authorized subordinate. Such action shall be pursuant to the provisions of A.R.S. § 41-1013.
- B.** In cases where, in the opinion of the Director or his representative, there is a compelling public necessity, the Director or his authorized representative may waive the enforcement of any of these rules and regulations, but all such waivers shall be treated separately for each party and each rule or regulation, and there shall be no collective waivers.

R13-3-602. Grounds for suspension of permit Repealed

A tow truck permit may be suspended for up to 1 year under the following conditions:

1. If the owner or operator violates any rule or regulation herein which does not warrant revocation. The period of suspension shall be determined according to the severity and frequency of the violation.
2. If the owner knowingly continues to employ an operator who has been convicted of more than 2 moving violations under A.R.S. Title 28 during a 1 year period. The suspension shall be for a period of 1 year from the date of the 3rd conviction. There shall be no suspension for a violation of this Section unless it is proven that the owner knew or should have known of the operator's convictions.

R13-3-603. Grounds for revocation of permit Repealed

A tow truck permit may be revoked under the following conditions:

1. If, while engaged in the operation of a tow truck, an owner or operator is convicted of A.R.S. § 28-692 (driving while under the influence of narcotics, dangerous drugs or intoxicating beverages) or A.R.S. § 28-693 (reckless driving), or has had his/her license to drive suspended under A.R.S. § 28-691 (Implied Consent Law), A.R.S. § 28-473 (License Suspension or Revocation) or A.R.S. § 28-1203 (Suspended, No Insurance, FR).
2. If it is discovered that a permit was issued on information supplied by the applicant that the applicant knew or should have reasonably known was false or inaccurate.
3. If the owner or operator refuses to make prompt restitution for any avoidable damage caused by his failure to comply with R13-3-501(A)(3) of these rules and regulations.
4. If the owner or an operator habitually violates any rule or Regulation herein or A.R.S. § 9-499.05.

R13-3-604. Appeals from tow truck enforcement action Repealed

- A.** Any person who has had a permit denied, or who has suffered any penalty under these rules and regulations, shall have the right to a hearing. A temporary suspension of operation pursuant to Section R13-3-203(E) is not a penalty, and no hearing shall be provided for the persons affected.

Arizona Administrative Register
Notices of Proposed Rulemaking

- ~~B. The hearing shall be conducted pursuant to A.R.S. §§ 41-1009, 41-1010, 41-1011, and 41-1013.~~
- ~~C. The Director or his authorized representative may, at his discretion, combine requests for hearings into 1 hearing where there are common parties or issues.~~
- ~~D. The hearing shall be conducted by a tow truck hearing board, comprised of the following members: Chairman — Commander of the Special Services Division of the Department, the affected District Commander of the Department, and 1 representative of the tow truck industry currently permitted and engaged in the business of towing, to be appointed by the Director.~~
- ~~E. Any notice required to be given to any party or person shall be in writing pursuant to A.R.S. § 41-1009. Such notice shall be deemed sufficient and complete when deposited in the United States mail, addressed to the last known address of the party to receive the notice as evidenced by the most recent application on file with the Department.~~
- ~~F. Within 35 days after the date of the final decision rendered in any hearing, an appeal may be taken to the Superior Court of the county in which any of the conditions of A.R.S. § 12-905(B) apply. Appeals to the Superior Court shall be governed by the provisions of A.R.S. w 12-901 et seq.~~

NOTICE OF PROPOSED RULEMAKING

**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS;
SECURITIES REGULATION**

CHAPTER 4. CORPORATION COMMISSION-SECURITIES

PREAMBLE

- | | |
|---|--|
| <p>1. <u>Sections Affected</u>
R14-4-142</p> <p>2. <u>The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):</u>
Constitutional authority: Arizona Constitution, Article XV §§ 4, 6, and 13
Authorizing statute: A.R.S. § 44-1821(A)
Implementing statute: A.R.S. § 44-1845(A)</p> <p>3. <u>The name and address of agency personnel with whom persons may communicate regarding the rulemaking:</u>
Name: Brian J. Schulman, Associate General Counsel
Address: Arizona Corporation Commission, Securities Division
1300 West Washington, 3rd Floor
Phoenix, Arizona 85007
Telephone: (602) 542-4242
Fax: (602) 594-7470</p> <p>4. <u>An explanation of the rule, including the agency's reasons for initiating the rule:</u>
Proposed rule R14-4-142 (the "Rule") provides an exemption from the registration requirements of A.R.S. §§ 44-1841 and 44-1842 and the notice requirements of A.R.S. § 44-3321. The Rule allows issuers who do not intend to sell securities in Arizona to offer the securities for sale on the Internet, provided certain conditions are met.

The Rule is inapplicable to Internet offerings from Arizona. It is intended only to provide an exemption for those issuers outside of Arizona who have no intention of making an offer or sale to persons in Arizona at the time of their offering.

For an issuer to take advantage of the Rule, the Internet offer for sale must prominently and conspicuously indicate on the cover page of any offering document and on any subscription agreement document that the securities are not being offered to persons in Arizona, or list the states, other than Arizona, where the securities are being offered. No other offer for sale may be directed specifically to any person in Arizona by, or on behalf of, the issuer. Furthermore, the issuer is precluded from making a sale in Arizona as a direct or indirect result of the Internet offer for sale.

An issuer who relies upon the Rule may subsequently offer and sell securities in Arizona pursuant to, and in compliance with, a valid exemption from registration, by filing a registration statement pursuant to A.R.S. §§ 44-1871, 44-1891, 44-1901, or 44-1902, or by filing a notice pursuant to A.R.S. § 44-3321. Where a registration statement is required, the issuer may not make a sale of securities in Arizona until 30 days after the filing of the registration statement or the effective date of the registration statement, whichever is later.

If an offer for sale on the Internet fails to comply with the conditions of the Rule, it may be an unregistered, unlawful offer for sale. Civil and administrative penalties may attach under the Securities Act of Arizona.</p> | <p><u>Rulemaking Action</u>
New Section</p> |
|---|--|

Arizona Administrative Register
Notices of Proposed Rulemaking

The purpose of the Rule is to permit capital formation by allowing issuers the opportunity to use more advanced methods of communication to raise capital. The Rule allows issuers who do not intend to offer securities in Arizona to access capital markets by offering the securities for sale on the Internet without imposing otherwise applicable Arizona registration requirements.

5. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

The Rule is desirable to assist businesses in capital formation in a manner that does not impose unnecessary expense. An Internet communication is directed generally to anyone who is able to access it. It is not necessary or appropriate to require the registration of securities that will be offered by an issuer on the Internet, but not offered in Arizona. It would constitute an undue hardship on many legitimate securities issuers who do not intend to offer or sell securities in Arizona if they are required to register all offerings placed on the Internet with the Arizona Securities Division.

Securities offered for sale on the Internet may be sold in Arizona only if the issuer properly registers or notices the securities prior to the sale, or relies on, and complies with, another exemption available under the Arizona Securities Act. Thus, the risk of harm to the general investing public in Arizona is very limited. The significant statewide interest in promoting capital formation for businesses should be advanced without any significant loss of authority to the Commission.

6. The preliminary summary of the economic, small business and consumer impact:

Pursuant to A.R.S. § 41-1055(D)(3), the agency is exempt from providing an economic, small business, and consumer impact statement.

7. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Not applicable.

8. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Date: March 3, 1998

Time: 10 a.m.

Location: Arizona Corporation Commission
1200 West Washington Avenue
Phoenix, Arizona 85007

Nature: Oral Proceeding

Close of Record: Open meeting of the Arizona Corporation Commission at which the Commission takes a final action with respect to the adoption of the Rule.

Prior to the oral proceeding, any person may submit written comments to the person listed in question #3.

9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None.

10. Incorporations by reference and their location in the rules:

None.

11. The full text of the rules follows:

**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS;
SECURITIES REGULATION**

CHAPTER 4. CORPORATION COMMISSION - SECURITIES

**ARTICLE 1. IN GENERAL RELATING TO THE
ARIZONA SECURITIES ACT**

Section

R14-4-142. Securities offerings on the Internet.

**ARTICLE 1. IN GENERAL RELATING TO THE
ARIZONA SECURITIES ACT**

R14-4-142. Securities offerings on the Internet.

A. Scope of Section. This section applies to any offer for sale of securities placed on the Internet, except for those offers for sale from Arizona. As used in this section, the term "Internet" is to be construed liberally to include all proprietary or common carrier electronic systems, or similar media.

B. An offer for sale of securities placed on the Internet by, or on behalf of, an issuer, involving securities that will not be sold in Arizona pursuant to the Internet offer, shall be exempt from the provisions of A.R.S. §§ 44-1841 and 44-3321, and the offeror of such securities shall be exempt from A.R.S. § 44-1842, provided that:

- 1. The Internet offer for sale prominently and conspicuously indicates on the cover page of any offering document and on any subscription agreement document (a) that the securities are not being offered to persons in Arizona, or (b) in which specific states, other than Arizona, the securities are being offered;**
- 2. The offer for sale is not otherwise specifically directed to any person in Arizona by, or on behalf of, the issuer; and**

Arizona Administrative Register
Notices of Proposed Rulemaking

3. No sales of the issuer's securities are made in Arizona as a direct or indirect result of the Internet offer for sale.
- C. Any issuer who places an offer for sale of securities on the Internet in accordance with this section may subsequently offer and sell such securities to persons in Arizona pursuant to a valid exemption from registration, or by filing a registration statement pursuant to A.R.S. §§ 44-1871, 44-1891, 44-1901 or 44-1902, or by filing a notice pursuant to A.R.S. § 44-3321. Where a registration statement is required, the issuer shall not make a sale of such securities to a person in Arizona until 30 days after the filing of the registration statement or the effective date of the registration statement, whichever is later.

NOTICE OF PROPOSED RULEMAKING

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 6. DEPARTMENT OF INSURANCE

PREAMBLE

- | <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
|------------------------------------|---------------------------------|
| R20-6-114 | Amend |
| R20-6-115 | Amend |
| R20-6-159 | Repeal |
2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statute the rules are implementing (specific):
Authorizing statute: A.R.S. § 20-142
Implementing statute: A.R.S. §§ 41-1062 and 41-1092.09
3. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:
Name: Greg Harris
Address: Arizona Department of Insurance
2910 North 44th Street, Suite 210
Phoenix, Arizona 85018
Telephone: (602) 912-8456
Fax: (602) 912-8452
4. An explanation of the rule, including the agency's reasons for initiating the rule:
The rule is duplicative and, therefore, needs to be repealed to prevent confusion concerning the rehearing or review of an order of the Director. However, 2 provisions of the current R20-6-159 should be retained, and thus, will be added to R20-6-114 and R20-6-115.
5. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:
Not applicable.
6. The preliminary summary of the economic, small business, and consumer impact:
Not applicable.
7. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:
Name: Greg Harris
Address: Arizona Department of Insurance
2910 North 44th Street, Suite 210
Phoenix, Arizona 85018
Telephone: (602) 912-8456
Fax: (602) 912-8452
8. The time, place, and nature of the proceeding for the admission, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:
Date: February 26, 1998
Time: 2 p.m.

Arizona Administrative Register
Notices of Proposed Rulemaking

Location: Arizona Department of Insurance
2910 North 44th Street, Suite 210
Phoenix, Arizona 85018

Nature: Oral proceeding for amendment and repeal of the rules. The Department will accept written comments which are received by 5 p.m. on February 26, 1998, or postmarked no later than that date.

9. Any other matters, prescribed by statute, that are applicable to the specific agency or to any specific rule or class of rules:
Not applicable.
10. Incorporation by reference and their location in the rules:
Not applicable.
11. The full text of the rules follow:

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 6. DEPARTMENT OF INSURANCE

ARTICLE 1. HEARING PROCEDURES

Section

- R20-6-114. Request for Rehearing or Review
R20-6-115. Response to Request for Rehearing
R20-6-159. ~~Rehearing or review of an Order of the Director~~
Repealed

ARTICLE 1. HEARING PROCEDURES

R20-6-114. Request for Rehearing or Review

- A. Within 30 days after service of the Director's order on the hearing, any aggrieved party may request a rehearing or review of the order. Such a request shall be in writing and shall be served upon the Director as provided by R20-6-103, and a copy shall be served upon all other parties to the hearing, including the Attorney General if the Attorney General is not the party filing the request.
- B. A request for rehearing or review shall be based upon 1 or more of the following grounds which have materially affected the rights of a party:
1. Irregularity in the hearing proceedings, or any order or abuse of discretion whereby the party seeking rehearing or review was deprived of a fair hearing;
 2. Misconduct by the Director, the hearing officer or any party to the hearing;
 3. Accident or surprise which could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence which could not have been discovered with reasonable diligence and produced at the hearing;
 5. Excessive or insufficient sanctions or penalties imposed;
 6. Error in the admission or rejection of evidence, or errors of law occurring at the hearing or during the course of the hearing;
 7. Bias or prejudice of the Director or hearing officer;
 8. That the order, decision, or findings of fact are not justified by the evidence or are contrary to law.
- C. ~~Each A~~ request for rehearing or review shall specify which of the grounds listed in subsection (B) it is based upon and shall set forth specific facts and laws in support of the request. ~~Each A~~ request may cite relevant portions of testimony from the hearing by referring to the pages or lines of the reporter's transcript of the hearing and may cite hearing exhibits by reference to the exhibit number.
- D. Each request for rehearing shall specify the relief sought by the request, such as a different finding of fact, conclusion of law or order. A request for rehearing or review may seek multiple forms of relief in the alternative.

E. When a request for rehearing is based upon affidavits, they shall be attached to and filed with the request unless leave for later filing of affidavits is granted by the Director or hearing officer. ~~Such leave~~ Leave may be granted ex parte.

F. All requests for rehearing or review of the Director's order on the hearing which are not timely made shall be deemed to be waived for the purpose of judicial review. A party who fails to request rehearing or review of the Director's order on the hearing shall thereafter be barred from raising such a claim in any proceeding in which the Director, the hearing officer or the Department of Insurance is a party, except as otherwise required by law.

G. A party may file a written request for a stay of the Director's decision. An order entered by the Director shall not be stayed by the filing of a stay request or a request for a rehearing or review. The Director may stay an order pending the resolution of a request for rehearing or review or when justice requires.

R20-6-115. Response to Request for Rehearing

- A. Each party served with a request for rehearing pursuant to R20-6-114 shall be permitted to file a response within ~~15~~ 5 days after service. This response shall be designated as a "response to request for rehearing or review" and shall be in writing. Affidavits may be attached to and filed with the response and shall not be filed thereafter unless leave for later filing of affidavits is granted by the hearing officer or Director. ~~Such leave~~ Leave may be granted ex parte. The original response shall be filed with the Department as provided in R20-6-103, and 1 copy shall be served upon all other parties to the hearing, including the Attorney General if the Attorney General is not the party filing the response.
- ~~B. The hearing officer or Director may, in his discretion, conduct a hearing or hear oral argument on a request for rehearing either upon motion of a party or upon his own initiative. The hearing officer or Director has the discretion to convene a hearing or hear oral argument to consider a request for rehearing.~~

R20-6-159. ~~Rehearing or Review of an Order of the Director~~ Repealed

- ~~A. Authority. This rule is adopted pursuant to A.R.S. § 20-142, 20-143 and 41-1010(B).~~
- ~~B. Purpose. The purpose of this rule is to implement A.R.S. §§ 41-1010(B) and 20-164(E), to delineate the procedure for a rehearing or review of an order of the Director, and to codify existing proper procedure for a rehearing or review of an order of the Director.~~
- ~~C. Effective date of an order of the Director. Except when good cause exists otherwise, no order of the Director shall become~~

Arizona Administrative Register
Notices of Proposed Rulemaking

effective until after the expiration of 10 days from the date it is signed by the Director.

D. Procedure for a rehearing of an order of the Director

1. ~~No appeal pursuant to A.R.S. § 20-166 shall lie except after the Director renders a final decision on the aggrieved party's petition for rehearing or review of an order of the Director. Upon written petition of a party to a hearing being filed with the Director within 30 days after any order made pursuant to a hearing has been mailed or delivered to the person entitled to receive such order, the Director may grant a rehearing or review of the matters involved in the hearing. Notice of such rehearing or review shall be given as provided in A.R.S. § 20-163. The Director shall either grant or deny a petition for rehearing or review within 30 days after such a petition is filed with the Director.~~
2. ~~An order of the Director may be vacated and a new hearing granted on petition of the aggrieved party for any of the following causes materially affecting his rights:~~
 - a. ~~Irregularity in the proceedings of the Director or prevailing party, or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing;~~
 - b. ~~Misconduct of the prevailing party;~~
 - c. ~~Accident or surprise which could not have been prevented by ordinary prudence;~~
 - d. ~~Material evidence, newly discovered, which with reasonable diligence could not have been discovered and produced at the hearing;~~
 - e. ~~Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the matter;~~
 - f. ~~That the order, decision, or findings of fact is not justified by the evidence or is contrary to law.~~

E. Scope. On a petition for a rehearing, the Director may take additional testimony, amend findings of fact and conclusions of law or make new findings of fact and conclusions of law or make new findings and conclusions, and direct that a new order be issued.

F. Contents of petition; amendment; orders reviewable

1. ~~The petition for a rehearing of an order of the Director shall be in writing, shall specify generally the grounds upon which the petition is based, and may be amended at any time before it is ruled upon by the Director.~~
2. ~~Upon the general ground that the Director erred in admitting or rejecting evidence, the Director shall review all rulings during the trial upon objections to evidence.~~
3. ~~Upon the general ground that the order or findings of fact is not justified by the evidence, the Director shall review the sufficiency of the evidence.~~

G. Time for petition; notice of rehearing. The petition for a rehearing or review of an order of the Director shall be served not later than 30 days after an order made pursuant to a hearing or an order refusing a hearing has been mailed or delivered to the person entitled to receive such order. Notice of such rehearing shall be given as provided in A.R.S. § 20-163. The Director shall render a decision on a petition for

rehearing within 30 days after the rehearing and shall render a decision on a petition for review within 30 days after the Director signs an order granting the petition for review.

H. Time for serving affidavits. When a petition for a rehearing or review is based upon affidavits they shall be served with the petition. The opposing party has 10 days after such service within which to serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days either by the Director for good cause shown or by the parties by written stipulation. The Director may permit reply affidavits.

I. On initiative by the Director. Not later than 30 days after an order made pursuant to a hearing or an order refusing a hearing has been mailed or delivered to the persons entitled to receive such order the Director of his own initiative may order a rehearing or review for any reason for which he might have granted a rehearing or review on petition of a party. After giving the parties notice and an opportunity to be heard on the matter, the Director may grant a petition for a rehearing, timely served, for a reason not stated in the petition. In either case, the Director shall specify in the order the grounds therefor.

J. Questions to be considered in rehearing or review. A rehearing or review, if granted, shall be only a rehearing or review of the question or questions with respect to which the order of the Director is found erroneous, if separable.

K. Stay of effective date. A petition for a rehearing or review of an order of the Director shall not stay the effectiveness of such order except as provided herein. A party desiring a stay shall make written application thereof to the Director. The Director may grant such a stay upon terms and conditions that are just and reasonable in the premises including, but not limited to, the conditions similar to those set forth in Rule 59 (j) (2), Arizona Rules of Civil Procedure.

L. Number of rehearings. Not more than 2 rehearings shall be granted to either party in the same manner. Notwithstanding the foregoing, a party may appeal pursuant to A.R.S. § 20-166, after the Director renders a final decision on a petition for rehearing or review filed by the aggrieved party, without having filed a 2nd petition for rehearing or review.

M. Petition for review. A petition for review shall be treated as a petition to alter or amend an order of the Director and shall be served in the manner and within the time allowed for a petition for rehearing. No hearing shall be held in connection with a petition for review.

N. Specifications of grounds of rehearing or review in order. No order granting a rehearing or review shall be made unless the order specifies with particularity the ground or grounds on which the rehearing or review is granted.

O. Severability. If any provision of this rule or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the provisions or applications of the rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

P. Effective date. This rule shall become effective immediately upon a certified copy of the same being filed in the office of the Secretary of State of the State of Arizona.